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SUPPLEMENTS

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PART I

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Kerala Gazette No. 46 dated 23rd November 1982.
PART I

GOVERNMENT OF KERALA

Abstract

KERALA FOREST CODE VOLUME I AND III—FOREST CONTRACTORS REGISTRATION AS CONTRACTORS FOR WORKING DOWN TIMBER AND FIREWOOD FROM FOREST TO DEPOTS AND REVISION OF RATES OF TENDER FORMS—AMENDMENTS TO PARA 10-9-3 (i) AND (ii) OF KERALA FOREST CODE—ORDERS ISSUED

AGRICULTURE (FOREST SPECIAL A) DEPARTMENT

G. O. Ms. No. 203/82/AD. *Dated, Trivandrum, 28th June* 1982.

Read:—1. Letter No. C4-25225/80 dated 2-2-1982 of the Chief Conservator of Forests, Trivandrum.

2. G. O. (Ms) No. 226/81/Forest dated 16-12-1981.

ORDER

Government are pleased to make the following amendments to the Kerala Forest Code, Volume I and to insert a new appendix as Appendix XXIX in Volume III of Kerala Forest Code namely:—

CORRECTION SLIP No. 10/1982

1. In the Kerala Forest Code, Volume I for paragraph 10 9-3 (i) the following shall be substituted namely,—

(i) a. Contractors who are willing to submit tenders for supply works in the Forest Department should register themselves with the Forest Department as per rules detailed in Appendix XXIX Kerala Forest Code, Volume III. Unless there are special reasons, tender for works should be invited only from registered contractors eligible to tender for the work concerned.

b. Tender forms will be issued to intending tenders at the rates fixed for sale of tender forms in Public Works Department. The rates of tender forms revised by the Public Works Department from time to time will become automatically applicable to the Forest Department also. Only such tender forms as are officially issued will be valid for submission of tenders;

2. The existing paragraph 10-9-3 (ii) in the Kerala Forest Code, Volume I will be deleted.

3. In Kerala Forest Code, Volume III after Appendix XXVIII the following shall be inserted as Appendix XXIX.

By order of the Governor,
K. L. N. RAO,
Special Secretary to Government.

To

The Chief Conservator of Forests, Trivandrum.
The Custodian and Conservator of Forests, Vested Forests, Kozhikode.
The Accountant General, Trivandrum.
The Accountant General, Trichur.
Agriculture (Forest) Department.

APPENDIX—XXIX

(PARA 10-9-3 (i) (a) VOLUME—I)

Rules for registration as contractors for working down timber firewood from forest to Depots (Supply Coupe, Contracts)

1. (a) Only persons who have registered themselves as contractors under these rules are entitled to submit tenders for working down timber and firewood from forests to depots.

(b) Contractors in 'A' and 'B' categories will be permitted to tender for works in all the Circles. Contractors of 'C' Category will be permitted to tender for works in all Divisions of the Circle in which, the registration is made, provided it is done in one of the divisions of the Circle.

Works: The term works means working down timber and firewood from forests to depots.

2. For the purpose of registration, the contractors will be classified into three separate categories on the basis of financial resources, professional experience and past record as follows:

'A' Category: Those who are entitled to tender for works of and above 3 lakhs rupees.

'B' Category: Those who are entitled to tender for works of and above 1 lakh but below 3 lakh rupees.

'C' Category: Those who are entitled to tender for works below 1 lakh rupees.

3. (a) Applications in Form I for 'A' and 'B' Categories will be made to the Conservator of Forests and for 'C' Category to the Divisional Forest Officer who will be the authorities to register such contractors.

(b) The application for registration as contractor should be supported by a solvency certificate issued by the Revenue Department or a Bank guarantee by a bank approved by Government (scheduled bank) under the Bank Guarantee Scheme as follows:—

'A' Category: Rs. 75,000 plus 10% of the amount by which the contract value exceeds Rs. 3 lakhs.

'B' Category: Rs. 50,000.

'C' Category: Rs. 25,000.

The applicants shall deposit the original title deeds or documents in support of the solvency certificates with the registering authority during the period for which the registration is in force.

(c) Application for registration as contractors should be supported by relevant documents supporting past experience in forestry works and past records from a Forest Officer not below the rank of an Assistant Conservator of Forests.

4. (a) The registering authority will then scrutinise the applications for registration. He will then satisfy himself as to the financial capacity of the applicant and also his ability to take up and carry out the works in a particular category. He can, if so needed, direct the contractor to produce before him satisfactory evidence towards this. If he is satisfied that the applicant can be registered as a contractor, the applicant will be intimated of the fact in Form II and asked to remit the registration fee at the following rates.

'A' Category: Rs. 200.

'B' Category: Rs. 150.

'C' Category: Rs. 100.

The applicant will be registered as a contractor after remittance of this fee. The Conservators of Forests who are the registering authorities of A & B categories will intimate the fact of registration to all other Conservators in the State and the Divisional Forest Officers who are the registering authorities for 'C' category will intimate the fact of registration to all other Divisional Forest Officers in the Circle. The registration fee is not refundable. If for any reason, the contractor is not found fit for being registered he will be intimated so. But this must only be a bare intimation of the fact that he is not being included in the list of registered contractors.

(b) If any application for registration as a contractor is rejected, the registering authority should record in writing his reasons for denying registration. He should also intimate confidentially his reasons for denial of the application for registration to his next superior authority.

(c) An appeal against the decision under sub-rule in the case of contractors in categories 'A' and 'B' will lie before the Chief Conservator of Forests and that in respect of category 'C' will lie before the concerned Conservator of Forests. The appeal shall be filled within one month from he date of receipt of the order rejecting the application.

5. After registration of a person as contractor, a registration card will be issued to him under the seal and signature of the registering officer in Form III. This card should be referred to in all the tenders submitted by him and be produced by the contractor if and when called for by any Officer of the Forest Department. If the original registration card is lost the authority competent to issue the original registration card may, on request made by the contractor in writing, and after enquiring the bona fides and after obtaining an indemnity bond executed by the contractor, issue a duplicate registration card after levying a fine of Rs. 25 from the contractor.

6. (a) The registration issued is valid only for one financial year. Registration Cards are to be renewed every year. Applications for renewal are to be submitted before 1st January in every year. in Form IV together with Bank guarantee Solvency Certificate. Applications may, however, be received upto 31st January; after realising a fine of Rs. 5 on such late application.

(b) A non-refundable fee of Rs 10 or such amount as prescribed from time to time by the Government is payable for renewal. Such renewal fee should be remitted after receiving intimation for the same in Form V. The registering authority can renew the registration or refuse to do so at his discretion following the procedure for registration as laid down in Para 4. He may refuse renewal for the following reasons.

(i) Not being satisfied of the financial stability of the applicant.

(ii) Failure to execute satisfactorily a previous contract.

(iii) Poor quality of works executed.

(iv) Or any other reasons which, in the opinion of the registering authority makes the applicant unsuitable for such registration.

7. A contractor who fails to get his registration renewed for any year can apply afresh the next year for registration only as a new contractor.

8 The registering authority shall, before 1st March, issue the renewal Card in Form VI or intimate the fact of having refused the request for renewal.

9 A list of applications for registration and renewal shall be maintained by each registering authority in Form VII. The reasons for refusal should be clearly specified in the register. The register will be a confidential record in the custody of the registering authority. But it will be open to inspection by his Superior Officers and by Audit.

Annexure

APPLICATION FOR REGISTRATION AS CONTRACTORS OF ALL CATEGORIES

FORM—I

1. Name of applicant (in block letters):
2. Full Address:
3. Officer to whom application is made:
4. In the case of individuals, who are partners of Registered Firms or in the case of firms of contractors, the following details should be furnished:
   (i) Whether the firm is a private/public limited concern or undivided Hindu Family individual or a registered partnership firm (attested copies of deeds. Articles of Association be enclosed).
   (ii) Names of partners with their liabilities.
   (iii) Name of person holding power of attorney.
   (iv) Place of business.
5. Category to which registration is sought:
6. Details of financial capacity (enclose solvency certificate or Bank Guarantee):
7. Particulars of experience on works labour command, equipment and other facilities on hand and technical assistance available etc.:
8. State whether he is a registered contractor in any other office in the Forest Department:
9. State whether the applicant was penalised in connection with any contract with Government, if so give details:
10. State whether any of his previous applications for registration in any of the Officers in Kerala Forest Department has been rejected:
11. State whether the applicant or any of his partners or shareholders is/are dismissed Government Servant(s):
12. State whether the applicant has under his employment, a dismissed Government Servant:

I have read and understood the rules regarding the registration of contractors published in
and amended from time to time.

Date:

Signature of applicant:

Conditions Governing the Registration

The rule for registration of contractors in the Kerala Forest Department appended and published in G. O. (MS) 1226/81/Forest dated 16-12-1981 shall form part of the conditions governing the registration.

2. *Demotion to Lower Class.*—(a) The Registering Authority, may by order demote a contractor to a lower class if he:

(i) fails to execute a contract or executes it unsatisfactorily; or

(ii) has no longer the adequate equipment, technical personnel or financial resources or

(iii) violates any important conditions of contract; or

(iv) is responsible for any other matter which would justify his demotion to a lower class taking into account the merits of the case.

3. *Suspension of business.*—Suspension of business may be ordered for an indefinite period, when pending full enquiry into the allegations, the competent authority is of the view that it is not desirable that business with the contractor should continue. Such an order may be passed if the competent authority is prima facic of the view that the contractor is guilty of an offence involving moral/turpitude in relation to business dealings, which, if established, would result in his removal/blacklisting.

4. *Removal from the approved list.*—(a) The Registering Authority may remove, the same of a contractor from the approved list if the contractor.

(i) fails to execute a contract or execute it unsatisfoctorily; or

(ii) has no longer the adequate equipment, technical personnel or financial resources; or

(iii) violates any important conditions of contract; or

(iv) fails to furnish the required incometax clearance certificate; or

(v) fails to abide by the conditions of registration or is found to have given false particulars at the time of registration; or

(vi) is declared or is in the process of being declared bankrupt, insolvent, wound up, dissolved or partitioned; or

(vii) persistently violetes the provisions of Labour Regulations and Rules.

5. *Blacklisting.*—A contractor may be black-listed for the following reasons:

(i) Where there is sufficient and strong justification for believing that the contractor or his employee has been quilty of malpractices such as bribery, corruption, fraud including substitution of or interpolation in tenders, pilfering or unauthorised use or disposal of Government materials issued for specific works etc.; or

(ii) Where the contractor contumeciously refused to pay Government dues without sufficient reasons and where the Registering Authority is satisfied that no reasonable dispute attracting reference to arbitration or Court of law exists for the contractors action; or

(iii) Where a contractor or his partner or his representative has been convicted by a Court of Law for offences involving moral turpitude in relation to business dealings; or

(iv) Where security considerations including suspected disloyalty to the State or warrant; or

(v) Where a contractor or his partner or his agent is found to have abeted induced public servants to indulge in corrupt practices.

(vi) A show cause notice should be issued before inflicting the punishment of blacklisting.

6. *Restoration.*—The question of upgrading a (demoted) contractor lifting the ban on business, restoring the registration, withdrawal of blacklisting, etc., may be considered at the appropriate time on the merits of each case by the authority who passed the original orders. Copies of orders revoking blacklisting orders shall also be furnished to the Government in the concerned Administrative Department.

Note: (i) This registration will be valid only for one financial year ending 31st March, 19 ...

(2) The registration card is to be renewed every year.

(3) Renewal application is to be submitted before 1st January every year together with an up-to-date incometax Clearance Certificate and a fee of Rs. 10 (not refundable)

(4) While tendering for works, the number of Registration Card shall invariably be refused to and produced when called for.

FORM—II

INTIMATION MEMO

Office of the..................
Station............
Date..........

With reference to application dated....................for registration as a contractor, Shri/Messrs.. is/are hereby informed that he/they can be registred as.................... category contractor subject to the rules governing registration of contractors. He/they will remit a sum of Rs..... ....(according to category) ....only to this office towards registration fee.

(Sd.)
Officer.

To
Shri/Messrs..............

FORM III

Date..........

No.

Shri/Messrs. (Name and full Address)

....................is/are registered as a.............................

Category Contractor (s) the Register No. being..........of 19...........

Signature & Designation of the Registering Officer.

(Seal of the Registering Officer)

Identification

Photograph—Passport size of Registered Constractor. Must be perforated and signed by Registering Authority.

FORM—IV

Application for Renewal of Registration as Contractor

1. Name of applicant (in Block letters)
2. Full address
3. Officer to whom application for renewal is made.
4. Category of Registration
5. Previous registration No. and the year from which he continues to be on the rolls
6. Details of financial capacity (enclose solvency certificate or Bank Guarantee if the period of Bank Guarantee already produced in previous years has elapsed
7. Particulars of experience on works, labour command, equipment and other facilities of hand and technical assistance available
8. State whether the applicant was penalised in connection with any contract with Government if so, give details
9. Whether the applicant under his employment a dismissed Government Servant

Station:

Date:

Signature of the applicant.

FORM V

Intimation Memo for Renewal of Registration

Office of the.....................
Station ....
Dated ....

With reference to your application dated ....for renewal of registration as contractor, Shri/Messrs..........................is/are hereby informed that his/their registration can be renewed for the financial year........... ending March..................... He/they will remit a sum of Rs. 10 only towards fee for renewal.

Officer.

To

....

FORM VI

Contractors Renewal Registration Card

No..................

Shri/Messrs.................................(Name and full address)..
....
is/are informed that his/their registration card has been renewed for the financial year ending.

Signature and Designation of the Registering Officer.

(Seal of the Registering Officer)

Form VII

Registration of Contractors for the year......................

Class ....

Serial No.	Date of application	Name and address of contractor	Whether application is for fresh registration or renewal	If renewal, No. of previous application and year from which he continues to be on rolls	Details of fee remitted	Whether application is accepted or rejected. If rejected state reasons in detail	Number of card issued	Signature of Officer	If the application is rejected whether the contractor has been intimated or not
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Note :—This register should be in custody of the Registering Authority.

Kerala Gazette No. 46 dated 23rd November 1982.
PART I



GOVERNMENT OF KERALA

Abstract

MEDICAL COLLEGES—PROVISIONAL SENIORITY LIST OF TEACHING STAFF EXCEPT T. D. MEDICAL COLLEGE STAFF AS ON 1-1-19 9 CANCELLED—ORDERS—ISSUED

HEALTH (Spl.) DEPARTMENT

G. O. Rt. 2678/82/HD. *Dated, Trivandrum, 30th October* 1982.

Read:—1. G. O. Rt. 2050/80/HD. dated 28-11-1980.
2. G. O. Ms. 27/81/HD. dated 21-1-1981.

ORDER

In the Government order read as 1st paper above a provisional seniority list of the teaching staff of the Government Medical Colleges as on 1-1-1979 excluding the T. D. Medical College teaching staff was approved and published. In the Government order read as 2nd paper above the final integrated gradation list of the teaching staff of the T. D. Medical College and the Government Medical Colleges as on 17-10-1972 was published.

The publication of the provisional seniority list of the teaching staff of the Government Medical Colleges as on 1-1-1979 excluding the teaching staff of the T. D. Medical College was necessitated because of the anticipated delay in finalising the integrated gradation list. But since the staff of the T. D. Medical College has been integrated with the staff of the Government Medical Colleges with effect from 17-10-1972 and the integrated gradation list as on 17-10-1972 has already been published, the seniority list of staff in the Government Medical Colleges as on 1-1-1979 excluding the T. D. Medical College Staff has become infructuous.

In the circumstances, the provisional seniority list of the teaching staff of the Government Medical Colleges of the state as on 1-1-1979 excluding

the teaching staff of the T. D. Medical College issued in the G. O. read as 1st paper above and published in the Gazette No. 22 dated 1-6-1982 is cancelled.

By order of the Governor,
V. GOPALAKRISHNAN NAIR,
Under Secretary to Government.

To

The Principals, Medical College, Trivandrum/Calicut/Kottayam/ Alleppey/Trichur.

The Stock File.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 1071/82/LBR. *Dated, Trivandrum, 1st October 1982.*

The award of the Industrial Tribunal, Quilon in respect of the dispute between the Secretary, Kerala Capacitors Engineering Technicians Industrial (Workshop) Co-operative Society Limited No. S. IND (Q) 313, Adoor and the workmen of the above concern represented by (1) Sri P. Narendranathan Pillai, Triveni, Parakoottam P. O., (Via) Manekkala (2) Sri G. Gopalakrishna Pillai, Madankavil Veedu, Chithara P.O. (Via) Kadakkal (3) Sri K. Ramachandran Pillai, Lekshmi Nikethan, Ponnezha, Mavelikara-7 (4) Smt. Edna Lawrence, Reensland, Mundakkal, Quilon received by Government on 16-9-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

K. Sivadasan,
Deputy Secretary to Government.

In the Industrial Tribunal, Quilon

Dated, this the 6th day of September 1982.

Present :

Shri C. N. SASIDHARAN B.Sc., B.L.,
Industrial Tribunal

In

INDUSTRIAL DISPUTE No. 12/82 (Old No. 23/80)

Between :

The Secretary, Kerala Capacitors Engineering Technicians Industrial (Workshop) Co-operative Society Limited No. S. IND (Q) 313, Adoor (By Advocate Sri D. Asokan, Quilon) } *Management*

And

The Workmen of the above concern represented by

(1) Sri P. Narendranathan Pillai, Triveni, Parakoottam P. O. (via) Manekkala.
(2) Sri G. Gopalakrishna Pillai, Madankavil Veedu, Chithara P.O. (via) Kadakkal
(3) Sri K. Ramachandran Pillai, Lekshmi Nikethan, Ponnezha, Mavelikara-7
(4) Smt. Edna Lawrence, Reensland, Mundakkal, Quilon
(By Advocate Sri Karunakaran Pillai) } *Workmens*

Representations :—

Sri Karunakaran Pillai, Advocate, Quilon.	For *the Workmens.*
Sri D. Asokan, Advocate, Quilon.	For *the Management.*

AWARD

This Industrial Dispute between the above parties was initially referred for adjudication to the Industrial Tribunal, Alleppey as per G. O. (Rt) No. 1210/80/LBR dated 21-8-1980. That Tribunal registered the case as Industrial Dispute No. 23/80. The above case was transferred to this Tribunal when it was constituted and re-numbered as Industrial Dispute 12/82.

The issue referred for adjudication is "Denial of employment to M/s P. Narendranathan Pillai, G. Gopalakrishna Pillai, K. Ramachandran Pillai and Edna Lawrance.

The workman No. 1 Sri Narendranathan Pillai, raised the following contentions in the Statement filed by him. The employer namely Kerala Capacitors Engineering Technicians Industrial (Workshop) Co-operative Society Ltd., No. S. IND (Q) 313, Adoor, Quilon District is a Co-operative venture engaged in the manufacture of certain electrical goods, came into existence in 1973 for providing employments to the unemployed engineers and skilled workmen. The workman in question who is an engineering diploma holder took 350 shares of 10 rupees each in the society and the later appointed the workman as a supervisor trainee in 1974 for a period of 18 months initially on a stipend of Rs. 150 per month. The above period was further extended till June 1978. With an enhancement of stipend to Rs. 285 per mensem. Even after that period he was not absorbed into regular services inspite of his repeated requests to the employer. However when the workmen insisted by a written representation dated 8-8-1978, that either his shares should be returned or that he should be appointed as a supervisor on a fixed pay scale. The employer appointed him as a supervisor on a time scale of Rs. 200-10-280-15-355 with a Dearness Allowance of Rs. 150. His initial pay was fixed at Rs. 220 per month and his appoint was to take with effect from 1-7-1978. Though the society was fully engaged in production it was suddenly closed on 1-8-1979. There was neither a closure nor a lock out as contemplated by law. The action taken was high handed, arbitrary and illegal. In October-November 1979 work was resumed with a set of engineers, workmen and technicians chosen by the new Board of Directors who took charge in September 1979. Though the workman on coming to know of the resumption of work reported for duty, he was not allowed to join duty. All representations made by him to the employer and the Government produced no result. The workman's services were not terminated according to law. Denial of employment to him is illegal. The workmen prays for an award seeking reinstatement with back wages and of attendant

benefits. Workmen numbers 2 and 3 raised similar contentions. The contentions of workman No. 4 who is an engineering graduate are more or less the same as those raised by workmen numbers 1 to 3 as for as mcterial particulars are concerned.

The employer who was served with notice did not appear or raised any contentions. It was therefore set ex-parte.

The counsel for the workmen submitted no instructions for workmen No. 2. He did not either appear in person and given evidence in support of his claims. Therefore no relief can be granted to him.

Workmen No. 1 was examined as WW1 on behalf of 1 and 3. He has given evidence in support of the claims details of which have already been set out earlier. Since the evidence remains unchallenged. I accept the evidence of the workmen Nos. 1 and 3. I find that they are entitled to the relief sought for.

Workman No. 4 was examined as WW2 in support of her claim. She has however stated that she has accepted another employment in Kerala State Electricity Board with effect from 22-10-1981. She has not expressed any desire to be reinstated in the post she was holding under the society in this case. The question of granting the relief of reinstatement does not therefore arise. She is however entitled to the grant of back wages from the date of denial of employment till the date of acceptance of other employment on 22-10-1981.

In the result I pass an award in the following terms.

(a) The workmen Nos. 1 and 3 shall be reinstated by the management with back wages from date of denial of employment at such rate and of other attendant benefits.

(b) Workman No. 2 would not be entitled to any of the reliefs sought for by him.

(c) Workman No. 4 shall be given back wages at such rate from the date of denial of employment to the date of her present appointment on 22-10-1981.

The parties will bear their respective costs.

Quilon,
6-9-1982.

C. N. SASIDHARAN,
Industrial Tribunal.

Appendix

Witness examined on the union's side:

WW1. Sri P. Narendranathan Pillai.
WW2. Edna Lawrance.

Kerala Gazette No. 46 dated 23rd November 1982.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O (Rt.) No. 948/82/LBR. *Dated, Trivandrum, 6th September 1982.*

The award of the Labour Court, Quilon in respect of the dispute between the General Manager, QETCOS Ltd., Umayanalloor, Quilon and the General Secretary, QETCOS Employees Union, Umayanalloor Industrial Estate P.O., Quilon received by Government on 17-8-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. Sivadasan,
Deputy Secretary to Government.

In the Labour Court, Quilon

Monday, the 2nd day of August, 1982.

Present:

Shri T. V. KUNHAHAMED, B.A., B.L.

Presiding Officer

INDUSTRIAL DISPUTE No. 17/81

Between

The General Manager, QETCOS Ltd., Umayanalloor, Quilon

And

The General Secretary, QETCOS Employees Union, Umayanalloor Industrial Estate P.O., Quilon.

Representations:—

Varinjam Sri N. Ramachandran Nair,
Advocate,
Quilon. — For *the Management.*

Sri K. Ananthasivam,
Advocate,
Quilon. ... For *the Union*

GA. 160/J

AWARD

This is an industrial dispute referred by the Government of Kerala as per G.O. (Rt) No. 1062/81/LBR dated 19-8-1981. The issue referred for adjudication is 'Dismissal of Machine Operater Sri Onnonny'.

2. The parties entered appearance. The union filed a statement raising the following contentions:—Sri Onnonny, who shall hereinafter be referred to as the 'Workman' was prosecuted for theft of one machine reamer. The Additional Judicial Magistrate of the II Class, Quilon had found the workman not guilty of the offence under Section 381 of I.P.C. and had acquitted him on 19-6-1980. There was a domestic enquiry, the enquiry officer had found the workman guilty of the charge of theft of machine reamer. The said finding is not based on any material evidence. Further sufficient opportunity was not given to the workman for substantiating his case. The enquiry officer had failed to take note of the fact that the stock register maintained in the factory has not been produced before him. Sri Sudersanan, from whom the reamer was recovered had purchased the same from "efficient engineers". The union prays for reinstatement of the workman with all back wages and other benefits.

3. No rejoinder was filed on behalf of the management.

4. When the matter came up for hearing on 3rd May 1982 the management and their advocate were absent. Similar was the case on 31st May 1982 and on 5th July 1982.

5. The workman was examined as W.W.1. He has stated that he has not committed theft of the article in question. Regarding the charge of unauthorised absence, he had stated that during the period in question he was in police custody and judicial custody. There is no evidence contra.

6. The Management has not filed a rejoinder. They have neither pleaded nor adduced evidence to show that the domestic enquiry was properly conducted and there are no reasons for rejecting the report of the enquiry officer. Even the report of the enquiry officer has not been produced. As it is I cannot uphold the dismissal of Sri Onnonny.

7. In the result, I pass an award, directing the management to reinstate the workman with full back wages and other benefits.

This award shall take effect on the expiry of 30 days of its publication in the Kerala Government Gazette as enjoined in Section 17A (1) of the Industrial Disputes Act.

Dictated to the Confidential Assistant, transcribed and typed out by him, corrected by me on this the 2nd day of August, 1982.

T. V. KUNHAHAMED,
Presiding Officer.

Appendix

Witness examined on the side of the Union:

W.W.1—C. Onnonny.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 1047/82/LBR. *Dated, Trivandrum, 25th September 1982.*

The award of the Industrial, Tribunal, Alleppey in respect of the dispute between the Management M/s. Koompanpara and Kaloor Group 'B' Estate West Kodikulam P.O., Thodupuzha and the workmen of the above estate, represented by the Assistant Secretary for Kerala, The Estate Staff Union of South India, E.S.U.S.I.Boildings, Muttambalam, Kottayam-4 received by Govern ment on 8-9-1982 is hereby published under section 17 of the Indurial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. Sivadasan,
Deputy Secretary to Government.

In the Court of the Industrial Tribunal, Alleppey

Dated this the 12th day of August, 1982

Present:

Shri K. KANAKACHANDRAN, B. SC., LL. B.

Industrial Tribunal

INDUSTRIAL DISPUTE No. 1/82

Between

The Management M/s Koompanpara and Kaloor Group 'B' Estate, West Kodikulam P.O. Thodupuzha.

And

The workmen of the above estate represented by the Assistant, Secretary for Kerala, The Estate Staff Union of South India, E.S.U.S.I. Buildings Muttambalam, Kottayam-4

Representations:

Sri B.S. Krishnan, Advocate, Ernakulam. } For *Management*

Sri M. Ramachandran, Advocate, Ernakulam. } *For Workmen*

GA. 175/82/J.

AWARD

The award in I.D. No. 5/73 of the Industrial Tribunal, Calicut was on a reference made by the Government of Kerala, in G.O. (Rt) No. 343/73/LBR. dated 24-3-1973. The issues referred therein were the non-employment of the workman Sri Kunjukutty and the revision of wages and other conditions of services. By an award dated 30-9-1975 the Industrial Tribunal, Calicut found the retrenchment of the workmen was valid and a declaration was also made regarding the entitlement of the workman to get compensation taking into account this monthly pay as Rs. 200 per month. A sum of Rs. 250/ was also awarded as cost to the workman.

2. The award of the Industrial Tribunal, Calicut mentioned above was challenged before the High Court of Kerala by the workman by filing O.P. No. 86/76. By a judgment dated 22-2-1978, the High Court set aside the finding in the award in relation to issue No. I and remanded the matter for the fresh consideration of the Industrial Tribunal, Calicut. In the above judgment the High Court observed as follows:—

"As per the finding of the Tribunal the management has failed to establish the case that the petitioner-worker concerned had abandoned the work. But then the Tribunal finds that he has been retrenched from employment with effect from 22-11-1972, the date on which the petitioner refused notice regarding retrenchment Ext.M4 before the Tribunal. Accor ding to tht Tribunal retrenchment was a course open to the management and that can be justified from the facts of the case. The Tribunal holds that the petitioner would be entitled to retrenchment compensation whch is as specified in the Industrial Dispute Act, which is fixed at 15 days wages for every completed year of service besides, gratuity as per the Gratuity Act.

Even according to the finding of the Tribunal, the conditions precedent for retrenchment had really not been complied with. If that be so, termination would only be illegal and inoperative. This aspect of the matter has not been properly considered by the Tribunal".

3. As directed by the High Court, a fresh award passed by the Industrial Tribunal, Calicut on 3-12-1978. This was after giving the parties concerned opportunity for adducing fresh evidence but both sides did not choose to adduce any fresh evidence. In the second award it was directed that the workman should be paid compensation in lieu of reinstatement at the rate of one months wages for each completed year of service. It is further declared that the workman would be entitled for backwages from the date of denial of employment to the date of the second award and he should be paid compensation in lieu of reinstatement as if he continued in service till the date of the award.

4. The second award passed by the Industrial Tribunal, Calicut was again challenged, the second time by the Management. The writ petition No. 1633/79 filed by the management was allowed by the High Court. While setting aside the second award passed by Industrial Tribunal, Calicut the High Court observed as follows:—

> The Tribunal wrongly thought that this Court has held that the retrenchment was not legalty vaild. That is a matter which the Tribunal was asked to find. It ought to have therefore considered that question. This Tribunal did not do so. Accordingly the rest of the finding of the Tribunal on the basis of the wrong assmmption is invalid. I quash the impugned award and direct the Tribunal to determine the very question which the Tribunal had been directed to determine in the earlier order of this Court.

5. After the judgment of the High Court of Kerala the jurisdiction of the Industrial Tribunal, Calicut was changed and accordingly entire files were transfered to this Court. After the receipt of the files I.D.No. 5/73 pending before the Industrial Tribunal, Calicut was renumbered as I.D.No. 1/82 in this Court.

6. From the two judgments which I extracted above, the only question to be resolved in this dispute is whether the retrenchment of the workman concerned was valid or not. When this matter was taken up, the counsel for both sides submitted that they did not want to adduce any fresh evidence with regard to the dispute and hence both sides were heard. The counsel for the workman submitted that sufficient evidence was adduced by the workman to show that the retrenchment itself was invalid. According to him only if there is a valid retrenchment, the necessary consequences will follow and otherwise the retrenchment will be a non-est and then it has to be presumed that the workman is still in service without any retrenchment.

7. It is not disputed that retrenchment notice Ext. M4 is dated 14-11-1972. This retrenchment notice was sent after knowing the failure of conciliation talk held between the management and workman. Ex. M4 is the true copy of the order retrenching the workman from service of the management. Relevant extract of the Ext. M4 order reads follows:—

> "You have put in eight years of service as on 15-2-1972 and you are entitled for four months wages as retrenchment compensation which works out at Rs. 800/8. You have taken an advance of Rs. 800, which is set off against the compensation payable to you.
>
> Please taken notice that you stand retrenched from service with effect from 15-2-1972 and you have absolutely no claim against the management hereafter".

8. The case put forward by the workman is the denial of employment whereas the abandonment of the work by the workman is the case put-forward by the management at some stage. Later the abandonement was

characterised as a valid retrenchment on account of the fact that the workman was rendered surplus Anyhow, despite these controversies, as per the directive of the High Court I am concerned here only with the validity of the retrenchment effected in the case of workman and the High Court directive was also only on that behalf. Therefore the issue now to be examined is whether there was a valid retrenchment. For this it would be better to advert relevant provisions of the Industrial Dispute Act. Sec. 25F of the Industrial Dispute Act governs the retrenchment and it reads as follows:—

> Sec. 25-F, Conditions precedent to retrenchment of workmen—No workmen employed in any industry, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—
>
> (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:
>
> Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service;
>
> (b) the worman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months; and
>
> (c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.

(Underline supplied)

9. From a reading of sec. 25 F, the prerequisites are (1) one months notice in writing (or in lieu of notice one months wages) indicating the reason for retrenchment should be given (2) the workman should be paid retrenchment compensation at the time of retrenchment and (3) notice in the prescribed manner should be served on the appropriate Government.

10. Anyhow, at the time of retrenchment i. e. on 15-2-1972 the workman had not been given any compensation which would be equivalent to 15 days average pay for every completed year of continuous service. Evidently the effective date of retrenchment as per Ext. M4 was on 15-2-1972 and the total service till that date as per evidence is of 8 years The order retrenching the workman was sent to him only on 15-11-1972, Ext. M4 (a) will reveal that. Ex. M4 is dated 14-11-1972. If the date of retrenchment is taken as 15-2-1972, as is evident from Ext. M4, it is unambiguously clear that on the date of retrenchment nothing was paid to the workman towards compensation. Therefore the retrenchment itself will have to be declared as illegal on that count alone. Secondly assuming that date of retrenchment was 15-2-1972, one month notice should have been sent to the workman at

least on 15-1-1972. Moreover there is no evidence to show that in lieu of notice one month's wages was given either on 15-2-1978 or 14-11-1972; Evidently these were also not complied with. Therefore on these grounds, the retrenchment has to be held as illegal. This will be the answer to the issue referred to the Tribunal for fresh consideration by the High Court of Kerala in two judgments referred above.

11. Once it is declared that the retrenchment is illegal, the consequence will be that the service of the workman will have to be treated as continuous without any break.

This award is passed holding that the workman is entitled for reinstatement in service with all consequential benefits.

K. KANAKAC.:ANDRAN,
Industrial Tribunal.

Kerala Gazette No. 46 dated 23rd November 1982.

PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 1019/82/LBR. *Dated, Trivandrum, 18th September 1982*

The award of the Industrial Tribunal, Alleppey in respect of the dispute between the Personal Manager, The Plantation Corporation of Kerala Ltd., Kottayam-686004 and the workmen of the above concern represented by the General Secretary, Kalady Plantation, Thozhilali Union (I.N.T.U.C.), Athirappally. P.O. received by Government on 8-9-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. Sivadasan,
Deputy Secretary to Government.

In the Court of the Industrial Tribunal, Alleppey

Dated this the 20th day of April 1982

Present:

Shri K. KANAKACHANDRAN. B.Sc., LL.B.,
Industrial Tribunal

INDUSTRIAL DISPUTE No. 20/82

(I.D. No. 30/79 pending before the Industrial Tribunal Calicut)

Between

The Personal Manager, The Plantation Corporation of Kerala Ltd,, Kottayam-686004.

And

The workmen of the above concern represented by the General Secretary, Kalady Plantation, Thozhilali Union (I.N.T.U.C.), Athirappally, P.O.

Representations:—

Sri. Joy Joseph, Advocate, Kottayam. } For *Management.*

Sri. M.V. Joseph, Advocate, Kottayam. } For *Union.*

G.A. 167/SMT.

AWARD

The issue referred for adjudication by the Government of Kerala through G.O. (Rt.) No. 1288/79 L&H dated 7-9-1979 is the denial of promotion to Messrs. (1) K. P. Jose (2) M. P. Ravi (3) T. C. Ittoop and (4) K. G. Gopinathan Nair as Field Assistants in the Kerala Plantation Corporation Ltd.

2. The General Secretary of the Kalady Plantation Thozhilali Union (I.N.T.U.C.), Athirappally took up the cause of the above said workmen and filed claim statement. It is stated in the claim statement that the four employees mentioned in the reference order were working in the Plantation Corporation of Kerala Ltd., for the last several years and they were eligible to be promoted as field Assistants pursuant to selection made by the Kerala Public Service Commission.

3. The appointment to the staff category in the Management is made by Kerala Public Service Commission. The post of Field Assistant is in the staff category and by virtue of provisions contained in the Kerala Public Service Commission (additional functions as respect of certain Corporation and Companies) Act, 1970, the P.S.C. has to be consulted in the matters relating to the method of recruitment of the employees of the Corporation and the principles to be followed in the matters of appointment. Thus, only through P.S.C., the management Corporation can make appointments in various posts in the Plantation Corporotion. On the request made by the Management, the P.S.C. invited application for the post of 7 Field Assistants through the notification dated 25-9-1973. In response to the above notification, the four employees who are concerned in the dispute applied for the post of Field Assistants. After the completion of all the formalities, the rank list was also published by the P.S.G. on 18-3-1975. The list consisted of department candidates and open market candidates. There were altogether 12 in the list of departmental candidates including the 4 concerned herein. The list was in force for 2 years from the date of publication of the rank list. From the rank list, the rank numbers 1 to 4 and 7 were appointed as Field Assistants on 4-8-1975. However no appointments were given to the persons concerned herein although there were posts for regular appointments. But surprisingly the Management had given appointments to 14 persons who were not at all in either of the rank list of Field Assistants. Those 14 persons were retrenched workers from Gwaliar Rayons, Mavoor. According to union, there appointments were irregular and against rules and were made in sheer out of political pressure. The departmental candidates who were not given appointment approached the Hon'ble High Court of Kerala by filing O P. No. 5939.76. That writ petition was dismissed holding that the Management corporation was not a statutory person which would come within the definition of "state". After the dismissal of writ petition, this industrial dispute was raised. According to the union, 14 retrenched workers from the Gwalier Rayons were appointed at the time when the

rank list published by the Kerala Public Service Commission was in force. There were enough vacancies to accommodate Public Service Commission recruits. If the management wanted to appoint the retrenched workmen of Gwalier Rayons that could have been done after giving appointments to the workmen concerned herein. It is also the contention of the union that the 4 workmen are entitled for retrospective promotion and consequential benefit at least from the date on which 14 retrenched persons were appointed by the Management corporation i.e., from February/ March 1975.

4. The Management filed a written statement by which the claims of the union were denied. The Management's contentions can be summarised in the following manner:—

The claim by the union that the workers viz., K.P. Jose, M. P. Ravi, T.C. Ittoop and K.G. Gopinathan Nair are eligible to be promoted as Field Assistant is untenable and post of Field Assistant is not at all a promotion post. The appointment to the post of Field Assistant has to be made by direct recruitment. Therefore the question of denial of promotion as Field Assitstants to the employees concerned in the dispute does not arise. On account of the nationalisation of private forest, several persons were thrown out of employment. In order to alleviate the difficulties and on humanitarian grounds, the Management decided to absorb 33 persons from Gwalier Rayons in the Plantation Corporation. It was done as suggested by the Government. The corporation had given temporary employment to 28 persons out of which one did not report for duty and two left service after a short spell. The appointments given to them were of a period of 3 months but they continued in service even after the expiry of 3 months. The persons so appointed included 14 Field Assistants also. The question of regularisation of their appointments was taken up with the PSC. However the PSC disagreed with the proposal and ultimately the Government of Kerala by its order G.O. (MS) 15/78/AD dated 10-1-1978 directed the Plantation Corporation to regularise the services of 25 employees. To some of them regularisation was directed to be given after giving exemption from possession of general qualification as also from age limit. It is true the management had sought the advice of the Public Service Commission for the appointment of Field Assistants prior to the appointment of 14 Field Assistants referred above. Public Service Commission by order No.CII (3)-11853/73/CW dated 8-5-1975 advised for appointment 10 persons. All the persons covered by the advised list were absorbed by the management. The employees conerned in the dispute were not included in the advised list and in view of that they cannot have any claim against the management. It is also denied that their names were included in the select list. The PSC had not sent any rank list at any time to the Managegement corporation. The appointments of 14 Field Assistants pursuant to Government letter dated 1-6-1974 were prior to the advice of the Public Service Commission. Those appointments were strictly in confirmity with the Governmental directive and there was no political pressure on the

Management for taking such a decision. Even assuming that the names of the workmen concerned in the dispute appeared in the list published by the Public Service Commission, that does not confer any right for them for being appointed. There is no violation of the provisions contained in the Kerala Public Service Commission (Additional functions as respect of certain Corporations and Companies) Act, 1970, or the rules made thereunder. There was no claim on the part of the union that the post of Field Assistants should be made a promotion post. Therefore the reference itself was bad in the eye of law. It is not correct to say that 14 persons were appointed when rank list was in force. Appointments were not denied to those who were adviced by the PSC. If the claim raised by the workmen are allowed, that would be against Rules and Government Orders.

5. The contentions raised in the written statement were disputed by the unions in the reply statement filed by them. The contention of the management that the names of 4 employees were not included in the select list is disputed. It is also contended that the 4 employees will have every right to claim the post of Field Assistants. So long as the select list is in force, regular vacancies of Field Assistants have to be filed up from the persons whose names are included in the select list. The select list normally would last for two years. The 14 persons from outside were given appointment by the Management after the publication of the notification inviting application on 25-9-1973 by the PSC. The regularisation of the appointment of 14 person at the instance of the Government was illegal when the select list of Field Assistant published by the PSC was in force. The management appointed persons who were not at all recruited by the Public Service Commission.

6. From the claims and counter claims, the only issue to be resolved in this case is whether four workmen concerned in the dispute were entitled for appointment as Field Assistants in preference to retrenched gwalier Rayons people Although in the reference order the issue referred was the denial of promotion to the post of Field Assistants, virtually, it was denial of appointments as Field Assistants to the workmen concerned. Whether it was through promotion or appointment, the workmen were aspirents for the posts of Field Assistants. Their claims were to the category of Field Assistant alone after recruitment by the PSC. The Justiceability of denial of appointmen is virtually the subject matter in this reference In view of this, the Management contention that the reference is bad in view of the fact that there was no denial of promotion is of no substance.

7. It is not disputed that the workmen concerned herein are eligible for being appointed as Field Assistants. They have been put in longer service under the management. The posts, of Field Assistants have to be filled up by the advice of the public Service Commission by virtue of the provisions contained in the Kerala Public Service Commission (Additional functions as respect of certain Corporations and Companies) Act, 1970. In accordance with the provisions contained in the Act proposal was made by the management for the recruitment of Field Assistants and based on that

proposal the Public Service Commission advertised Ext. W1 notification. In that notification it is stated that the appointment is through direct recruitment. The vacancy notified were seven. It is also provided therein that 50 percent of the post would be reserved for workers who were already in the service of Kerala Plantation Corporation. It is further provided in the notification that the rank list published after selection would be in force for one year and from the list of the vac ancies which would arise during that one year period would be filled up from the persons whose names are included in the select list. Ext. W2 is a true copy of the select list published by the P S C. The list was brought into force with effect from 18-3-1975. The list No. I contained the names of department candidates and altogether 12 names were included in the list prepared from the department candidates. Rank No. 5, 8, 11 and 12 are of the workmen concerned in this dispute. In respect of open market candidates a rank list containing 116 persons were also published by the PSC. On the basis of the select lists nanes of 10 persons were advised by the Public Service Comission for being appointed as Field Assistants from both categories. That advice list is produced by the management as Ext. M2. It is true that in the advised list, the names of workmen concerned herein were not included. Ext. M2 is dated 8-5-1975.

8. Ext. W3 is the notification issued by the Government by adding sub rule 6 (a) to the rules regulating the procedure to be observed by the Kerala Public Service Commission. By this amendment to the Rules, the select list will have force for a period of two years if in the meantime no other list has been published. Therefore it is the contention of the union that the select list published by the Public Service Commission will be in force for two years from 18-3-1975. The question to be decided in this case is whether the management was justified in appointing 14 persons from outside as Field Assistants without resorting the recruitment by Public Service Commission. In this context Management's contention is that they had followed only the Governmental instruction. Now a further question can also be raised. That is even assuming that the government have the power to direct the Mangement to make appointmenis without adhearing the provisions contained in the Kerala Public Service Commission (Additional functions) Act, the supersession of the workmen concerned herein is justifiable.

9. Ext. W3 is the select list published by the Public Service Commission. The authenticity of the list is not at all discredited by the management in any manner. At the time of publication of the select list, 14 persons who were appointed as Field Assistants were continuing only on provisional basis. Initially these 14 Field Assistants from outside were appointed only for a period of 3 months and there appointments itself were subject to the claims made by the Public Service Commission recruits. This fact is evident from a communication of the management addressed to the Government which is dated 16-4-1974.

This communication was not marked by either side. Therefore that letter produced by the Management is marked as a Court Exhibit (Ext. Cl). A portion of Ext. Cl reads as follows:—

> In this connection it may be pointed out that this matter was once placed before the Board of Directors and it was resolved to appoint 33 staff members thrown out of employment from Gwalier Rayons on temporary basis for a period of three months subject to the condition that they will be relieved from service as and when candidates recruited by the Public Service Commission join duty.
>
> * * * *
>
> In this context it is pointed out that we have at persent taken over the management of Koliot Estate in Nilambur area, where we require the services of some qualified and experienced personnel for field work supervision etc., But we are not authorised to make any appointments without consulting the Public Service Commission as the appointments to the posts are left within the purview of the Commission.

10. It is evident from Ext. M3 that the services of 25 persons who were appointed provisionally cosequent to the Government Order dated 1-6-1974 were regularised only on 10-1-1978. Among these 25 persons five are Field Assistants and their services were regularised after giving exemption from age limit. Ext. M3 does not state from which date regularisations were made effective in the case of retrenched employees who were absorbed in the Management Corporation. Therefore these persons including 5 Field Assistants in whose favour exemptions from age limit were given, could be regularised in service only from 10-1-1978, the date of Government Order.

11. Ext. Cl dated 16-4-1974 will show that there were vacancies at that time to provide appointments to the workmen concerned herein as Field Assistants, for before the regularisation of the services of Field Assistants. The retrenched persons were appointed purely on temporary basis by keeping the right of the Corporation to make regular appointments of the Public Service Commission hands. On the basis of Ext. W1 notification, selection was made and selected list was also publised by the Public Service Commission on 15-3-1975. Therefore the P.S.C. recruits were available to fill up the posts of Field Assistants which were already there. In view of these, there was no difficulty for management to give appointment to all persons whose names were appeared in the list showing the department candidates. There were only 12 names in the select list meant for department candidates. Since 14 persons were working on provisional basis as Field Assistants, they should have been replaced by the workmen concerned herein as Field Assistants. Having not done that, the management cannot say now that they only obeyed the Governmental instruction. Even if sanctity is given to Ext. M3 order, those 14 persons would get right for regular appointment only from 10-1-1978.

12. At the time of arguments it is submitted by the counsel who appeared for the union that although the four workmen concerned herein were denied appointments as Field Assistants during April and May 1975, three of them viz., K.P. Jose, K.G. Gopinathan Nair and T.C. Ittoop got appointments by promotion on 29-7-1980. No materials are before me how and in what process the three of the workmen were given appointment as Field Assistants during the pendency of this industrial dispute. The fourth man Sri. M.P. Revi has not been appointed so far. Three of the workmen referred above are now claiming retrospective promotion and consequential monetary benefits. The fourth one is also claiming identical relief in view of the fact that there were regular vacancies and those vacancies were not regularly fill up when a select list of P.S.C. was in force. The workmen concerned herein could have been given appointment as Field Assistants immediately after the publication of the select list or at any rate before the expiry of the list. The provisional hands cannot have a better claim over the regularly recruited persons. Moreover, the retrenched workmen of the Gwalier Rayons including the 14 Field Assistants who were appointed provisionally during the year 1974 could be given regular appointment only after Ext. M3 order of Government dated 10-1-1978. I am not expressing anything about the legality of Ext. M3 order of the Government of Kerala and in this proceeding I cannot decide about its validity also. My only anxiety is that while implementing Ext. M3, the vested right acquired by the workmen herein shall not be affected. The position as on 10-1-1978 is that there were 14 regular vacancies in which P.S.C. recruits could be easily appointed. Since those 14 persons would get regular appointment only after 10-1-1978, it can be presumed that there were enough vacancies to fill up those posts with the candidates already recruited by the Public Service Commission. It is evident from Ext. W2 that the four workmen were in the select list prepared for the department candidates. Since 50% quota was reserved for department candidates 7 out of 14 posts could have been filled up by department personnels. From the select list of 12 department candidates only 5 were appointed on 4-8-1975. Therefore all the seven remaining would also be in a position to get appointment since seven vacancies (50% quota) were there for departmental personnel. In that case all the workmen herein could have been given appointment as early as during 1975.

13. In view of the above I declare that all the four workmen concerned in the present dispute are entitled for appointment as Field Assistants from the date on which five others from Ext. W2 select list were appointed i. e., from 4-8-1978. In view of this declaration, necessarily they will take the place in which provisional hands were continuing. On account of retrospective promotion the workmen are entitled for seniority over the provisional Field Assistants who were appointed during April/May 1978 and also for monetary benefits. The award is passed accordingly.

K. KANAKACHANDRAN,
Industrial Tribunal

Appendix

Witness examined on the side of Management.

MW1 Damodaran K., Personal Manager.

Exhibits marked on the side of Management.

Ext. M1. Letter No. 33511/P3/AD dated 1-6-1974 from Agricultural Department.

,, M2. Letter No. C-II(3)-11853/73/CW dated 8-5-1975 from P.S.C.

,, M3. Copy of G.O. (MS) 15/78/AD dated 10th January 1978 issued by Agricultural Department.

,, M4. Memorandum of Association of the Plantation Corporation of Kerala Ltd.

Witness examined on the side of workmen.

WW1. K.P. Jose.

Exhibits marked on the side of workmen.

Ext. W1. Copy of Notification & Order dated 25th September 1973 issued by Public Service Commission.

,, W2. Rank List of candidates for the post of Field Assistants.

,, W3. Copy of G.O. (P) No. 131/75/PD dated 30-6-1975.

,, W4. List of persons who were appointed as Field Assistants.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 1020/82/LBR. *Dated, Trivandrum, 18th September 1982.*

The award of the Labour Court, Eranakulam in respect of the dispute between the President, Elakkad Service Co-operative Bank Ltd., Marangattupally. P.O., Kottayam District and the worker of the Bank Sri. K. R. Venugopalan Nair, Kuttarappallil, Elekkadu P.O., Via/Vayala, Kottayam District received by Government on 26-8-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In The Labour Court, Ernakulam

Dated this the 19th day of August, 1982

Present :

SHRI N. SUKUMARAN, B.SC., B.L.,
Presiding Officer

In

INDUSTRIAL DISPUTE No. 11 of 1979

Between

The President, Elakkad Service Co-operative Bank Limited,
Marangattupally P. O., Kottayam District

And

The worker of the Bank Sri. K. R. Venugopalan Nair, Kuttarappallil,
Elekkadu P. O., (Via) Vayala, Kottayam District.

Representations:

Shri Zachariah Koshy,
Advocate,
Kottayam.
} For *Management*.

Shri M. J. Thomas,
Advocate,
Kottayam.
} For *Workman*.

G.A. 168/SMT.

AWARD

The issue referred for adjudication by Government as per G. O. (Rt.) No. 68/79/L&H dated 12-1-1979 is " Discharge of Shri K. R. Venugopalan Nair, Manure Depot Salesman."

2. The employee in the claim statement contends that he was denied employment while he was working as the Salesman on a monthly salary of around Rs. 100 continuously from 15-12-1976 with effect from 16-2-1978 without assigning any reasons and that who is left without any job is to be reinstated with all benefits.

3. The case advanced by the Management in its written Statement is that Shri Venugopalan Nair was only a casual employee engaged as a cooli on daily wages of Rs. 4 as and when there was work in the Manure Depot. He was never appointed as a Salesman as claimed by him with effect from 15-12-1976. His services were utilised at intervals from 23-2-1976 onwards. But he was never absorbed as a regular employee. Appointment on regular basis is permissible only as per the sanctioned strength. There was no sanctioned post of Salesman during the period Shri Venugopalan Nair was casually employed. Sanction for appointment of a Salesman-cum-attender was obtained from the Deputy Registrar of Co-operative Societies subsequently and applications were invited for appointment to that post in an advertisement made in the issue of Deepika Daily dated 19-12-1977. Shri Venugopalan Nair also applied in response to that notification for the post. He voluntarily abandoned the services with effect from 12-2-1978 hoping that he can also compete for the selection. There was no denial of employment to him. He had filed an A.R.C. case before the Deputy Registrar and a Minimum Wages Application before the Deputy Labour Commissioner against the Society. Those authorities were convinced that he was only a casual daily labourer. He is not entitled to any benefits as claimed by him. Reference is also not maintainable as there is no Union espousing his cause and Section 2-A of the Industrial Disputes Act is not applicable.

4. In the re-joinder Shri Venugopalan Nair reaffirms his claims while denying the contentions raised by the Management.

5. The evidence in the case consists of the testimony of MWs. 1 and 2, WW1, Exts. M1 to M8 and W1 to W5.

6. The maintainability of the reference is questioned on the contention that what is involved is only an individual dispute and no dismissal or discharge or termination otherwise is involved. The answer of the employee is that Section 2-A of the Industrial Disputes Act is applicable and that way there is an industrial dispute even though there is no Union espousing his cause. The issue referred is discharge. But the complaint is one of denial. Either way Section 2-A of the Industrial Disputes Act is attracted on the basis of the claims advanced by the workman. The question as to

whether there was a voluntary abandonment or not is a matter that has to be decided on merits on the basis of evidence. Suffice it to say that the contention regarding the maintainability of the reference is not tenable.

7. The contention that the workman did not have continuous service was given up by the Management at the stage of trial. The workman wanted the production of account books of the Society to show that he was being paid on all working days. At that stage the Management conceded that the workman was having continuous service. On the basis of the admission of the Management the workman had put in longer service than what is claimed by the employee as the date of origin stated by the Management is 23-2-1976 against the claim of the workman that it was 15-12-1976. There is also a dispute regarding the last date on which the employee worked. According to the workman he worked upto and inclusive of 15-2-1978 and he was denied employment with effect from the next day. But the Management contends that he voluntarily abandoned the services on 12-2-1978. Whatever it be we have to proceed accepting the position that Shri Venugopalan Nair had continuous service from 1976 to February 1978 when the alleged denial or abandonment occurred.

8. The main controversy is as to whether there was a denial of employment or an abandonment. The workman as WW1 states that he was denied employment on 15-2-1978 with effect from the next day. He states further that he was told on 15-2-1978 that his services are no more required from 16-2-1978. His case is that the President and the Secretary both told him that he need not work thereafter. The President is not examined. But the then Secretary examined as MW2 states that he did not deny employment to the workman. MW1, the other witness examined on the side of the Management, was the Depot Manager of the Depot in which the workman was then employed. He had nothing to do with the managerial affairs of the Society and so his evidence is of no important in resolving the present controversy. The acceptability or otherwise of the conflicting versions of WW1 and MW2 are to be considered in the light of documentary evidence and the circumstances available.

9. Shri Venugopalan Nair was continuously working in the Depot. While so the Society obtained sanction for appointment of an employee on a permanent basis in the Depot as a Salesman-cum-attander. No designation was attached to Shri Venugopalan Nair. However the sanction obtained was for appointment of an employee to do some atleast of the functions that were being discharged by him. Even before the new post was filled up Shri Venugopalan Nair filed Arbitration Case No. 6/78 before the Deputy Registrar of Co-operative Societies. Kottayam challenging the authority of the Management to appint some one else to the post. Ext. M3 is a copy of the arbitration petition and that is dated 2-2-1978. That was dismissed by the concerned authority as per an order dated 1.3-1978 copy of which is Ext. M4. We are not much concerned with the validity of Ext. M4. But Ext. M3 gives sufficient indication to infer that Shri Venugopalan Nair had already staked his claim to have permanency to the post as early as on

2-2-1978. It is probable for him to have voluntarily abandoned the job on 12-2-1978 in this background? I must say that it is not in the ordinary course of human conduct. On the other hand the probability is more in accepting the employee's case that the Management denied him employment because he had filed Ext. M3 case against it. It is the admitted case that he was not called for interview even though he had applied for the post. In all probability he must have filed Ext. M3 knowing that he has no fair chance of getting a selection pursuant to the application already filed. The case of the Society that he voluntarily abandoned in order to try his luck in the competitive selection is far from convincing. So the case of the employee that he was denied employment has to be accepted in preference to the contentions otherwise advanced by the Management. So the version of WW1 has to be accepted in the circumstances. Therefore I hold that there was a denial of employment and not a voluntary abandonment. The exact date of denial of employment is not very much important and therefore it is unnecessary to consider that aspect.

10. There is yet another controversy as to what exactly were the duties performed by Shri Venugopalan Nair. His case is that he was a Salesman. Much reliance is placed by him on Ext. W1 certificate issued by MW2 to him on 28-12-1977. Ext. W1 is a photostat copy and the original produced at the time of arguments was marked as Ext. W1(a). The certificate is to the effect that Shri Venugopalan Nair was working as a Salesman from 15-12-1976. But here again there is another controversy regarding the year appearing in the certificate. The certificate is typewritten. The year was also typewritten originally as 1977. But it is corrected by changing the last digit as 6 in order to read as 15-12-1976. The workman as WW1 states that the correction was made by MW2 who issued the certificate when he had signed it. The signature is in green ink and a similar ink is employed to effect the correction. This circumstance is relied on by the workman to say that the correction was made by the author of the certificate. But the author as MW2 denies having made that correction. According to MW2 Ext. W1 was issued as the workman wanted to produce it in support of the experience claimed by him to secure an alternate job in a District Co-operative Bank. Admittedly the workman was working in this Co-operative Bank from 1976 onwards. Naturally the workman would have asked for a certificate showing the origin of service as in 1976 if it was intended to be utilised for securing another job. In such a situation an experience certificate covering a period of 13 days (the date of certificate being 28-12-1977 the interval from 15-12-1977 will only be 13 days) would not have served any useful purpose. But the workman has another interesting reason for having secured Ext. W1. What he states is that he wanted the certificate as an evidence of his service as a Salesman and not for any other purpose. It is important to notice that Ext. W1 was issued by the Secretary of this Bank after the date of the advertisement calling for applications for appointment of the Salesman-cum-Attender and this workman had also applied for the same. But the Director Board of the Bank is seen to have taken

MW2 to task for having issued such a certificate. They called for his explanation why such a certificate was issued on 15-2-1978 presumably when the certificate was produced in the arbitration case. Ext. M6 is the explanation submitted by MW2 in answer to the notice issued to him on that behalf. There he states that the certificate was issued only to help Shri. Venugopalan Nair to secure a job in the District Co-operative Bank, Alleppey. The explanation was considered by the Director Board and it was accepted as could be seen from Ext. M8 minutes. But we are more concerned with the designation shown in Ext. W1. There Shri Venugopalan Nair is shown as a Salesman. But according to the Society and MWs. 1 and 2 Shri Venugopalan Nair was only just weighing the manure and doing other miscellaneous work such as cleaning, stacking the gunny bags etc. Exts. M1 and M2 series are vouchers admittedly passed by Shri Venugopalan Nair in token of having accepted his wages. Ext. M1 states that it is cooli for a day of Rs. 4. Ext. M2 series five in number are for remuneration for a month each. In Ext. M2 (c) the cooli is described as for weighing manure alone. But in the other vouchers it is said as for weighing and sale– " വളം തൂക്കി വില്ക്കാൻ പണിയെടുത്തതിന് ". This description is relied on to argue for the employee's case that he was a Salesman. To strengthen his argument reliance is placed on Exts. W4 (a) and W4 (b) bills which according to WW1 were written by him. But MW1, the then Depot Manager, says that those bills were also written by him in his handwriting. But there is an apparent difference in the handwriting and initial in Exts. W4 (a) and W4 (b) from the rest of the bills contained in Ext. W4 book. MW1 had admitted that he may be on leave on certain days and that someone may write the bills in his absence. But Exts. W4 (a) and W4 (b) are only two of the numerous bills written in the Depot and it is not pointed out that WW1 was regularly in the habit of writing bills. Admittedly it was the duty of the Depot Manager to write bills and WW1 cannot therefore be discharging the normal duty of preparing the bills. But Ext. M2 vouchers indicate that he was in some way involved in the sale also. But his involvement normally can only be in the matter of weighment as he was not admittedly in charge of receipt of cash or preparation of bills. So the case that he was a Salesman cannot be true. When viewed in this background the description in Ext. W1 as Salesman need not be given any serious significance. So we have to proceed further on the basis that Shri Venugopalan Nair was engaged only for weighment and other duties of an Attender in the Depot.

11. The Society's case that Shri Venugopalan Nair's services could have been dispensed without adhering to the formalities simply because there was no sanctioned post when his services were utilised cannot be accepted as the Society that was carrying on an industry as that term is defined in the Industrial Disputes Act had employed him continuously for more than 240 days in an year continuously from 1976 till his services were terminated in February 1978. It may be true that the Society has every right to make regular appointment to the sanctioned post as insisted

by the Co-operative Societies Act, the Rules framed thereunder and the bye-laws applicable to it. That does not give a right to the Society to terminate the services of Shri Venugopalan Nair who was a worker as per the Industrial Disputes Act without complying with the formalities prescribed under Section 25-F of that Act. So his termination which amounts to a retrenchment as defined in Section 2 (oo) of the Industrial Disputes Act is invalid and ineffective.

12. Now we have to consider as to what reliefs Shri Venugopalan Nair is entitled to. The normal rule is that the termination is ineffective and he has to be reinstated as though there was no termination. But that rule is not without exception as is pointed out by the Supreme Court in *Surendra Kumar Verma and others* v. *Central Government Industrial Tribunal, New Delhi* (1981 I. L. L. J. 386). Of course deviation from the normal rule is permissible only in exceptional cases. The question is as to whether the case in hand is one such. This is a case where the employee's services were utilised when there was no sanctioned post. He was not considered as a regular employee and he was not being paid as per the acquittance roll Ext. M7 under which payments were made to the other employees. A different post (Salesman-cum-Attender) was subsequently sanctioned by the Department to which the Society could make an appointment only inviting applications and making a selection on competitive basis. The Society could not have straightaway appointed Shri Venugopalan Nair to the post without observing the formalities. His services were dispensed with in those circumstances. So he cannot claim the post as a matter of right. Hence adequate compensation will be sufficient in lieu of reinstatement. It is admitted by Shri Venugopalan Nair as WW1 that he was receiving benefits under the Government Scheme for payment of wages to unemployed persons in 1980 and 1981. That was at the rate of Rs. 50 per mensem. The monthly earnings under the Management was around Rs. 100 per mensem. According to his claim he had served the Society only from 15-12-1976 to 15-2-1978. Considering all these facts and circumstances I fix a round sum of Rs. 2,500 as compensation in lieu of reinstatement and back wages.

13. In the result an award is passed directing the Management to pay Shri Venugopalan Nair a sum of Rs. 2,500 (Rupees two thousand and five hundred only) as compensation. Shri Venugopalan Nair is not entitled to any other reliefs.

Ernakulam,
19-8-1982.

N. SUKUMARAN,
Presiding Officer.

Appendix

Witnesses examined on the Management's side :

MW1 Shri Mathew V. J.

MW2 ,, A. V. Thomas

Witness examined on the Workman's side :

WW1 Shri Venugopalan Nair.

Exhibits marked on the Management's side :

Ext.	M1.	Voucher dated 27-12-1976 for Rs. 4 paid to Shri Venugopalan Nair.
,,	M2.	A voucher dated 25-6-1977 executed by Shri Venugopalan Nair for Rs. 104
,,	M2 (a).	A voucher dated 30-7-1977 executed by Shri Venugopalan Nair for Rs. 104
,,	M2 (b).	A Voucher dated 23-8-1977 executed by Shri Venugopalan Nair for Rs. 76
,,	M2 (c).	A voucher dated 31-8-1977 executed by Shri Venugopalan Nair for Rs. 24
,,	M2 (d).	A Voucher dated 31-10-1977 executed by Shri Venugopalan Nair for Rs. 100
,,	M3.	Copy of Arbitration Petition No. 6/1978 filed by Shri Venugopalan Nair.
,,	M4.	Order of the Deputy Registrar in Arbitration case No. 6/1978, dated 1-3-1978.
,,	M5.	Copy of an application under Sec. 4 of the Kerala Payment of Subsistance Allowance Act 1972 dated 12-5-1978 filed by Shri Venugopalan Nair.
,,	M6.	Explanation of Shri A. V. Thomas dated 16-2-1978 submitted to the President of the ilackad Service Co-operative Bank.
,,	M7.	Minutes book of the Bank from October 1976 to July 1978.
,,	M7 (a).	Page 231 of Ext. M7.
,,	M8.	Acquittance book of the Bank from July 1976 to November 1978.

Exhibits marked on the Workman's side :

Ext.	W1.	Photostat copy of a certificate dated 22-12-1977 issued to Shri Venugopalan Nair from the Bank.
,,	W1 (a).	Original certificate of Ext. W1.

Ext.	W2.	A letter dated 22-2-1978 from the Deputy Labour Officer informing the date of a joint conference of the parties to the dispute.
,,	W2 (a).	A letter dated 10-4-1978 from the Deputy Labour Officer intimating the date of another joint conference.
,,	W2 (b).	A letter dated 24-4-1978 from the Deputy Labour Officer intimating the date of another joint conference.
,,	W2 (c).	A letter dated 21-6-1978 from the Deputy Labour Officer intimating the date of another joint conference.
,,	W2 (d).	A letter dated 6-7-1978 from the Deputy Labour Officer intimating the date of another joint conference.
,,	W3.	Order of the Deputy Labour Commissioner dated 15-5-1979 on the petition filed by Shri K. R. Venugopalan Nair under the Kerala Payment of Subsistance Allowance Act.
,,	W4.	Carbon copy book of the bills starting the date 25-8-1977.
,,	W4 (a).	Bill No. 18986 dated 29-8-1977 in Ext. W4.
,,	W4 (b).	Bill No. 18987 dated 29-8-1977 in Ext. W4.
,,	W5.	Copy of the objection filed by the Bank in Arbitration case No. 6/1978.

G VERNMENT OF KERALA

Labour (A) Department

NOTIFI A1ION

G. O. (Rt.) No. 979 82 LBR. *Dated, Triva drum, 15th Sipte n r 1932.*

The a vard of the Labour Court, Ernakulam in respect of the dispute between the M n gem nt of the Man ging Director, Ke ala State Bambro Corp ration Limited, Ang mali and the Workm n of the above concern Shri C. D. Joseph, Chakkisse i H use, Nayathoda P. O., Angamali received by Government on 20-8-1932 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Centıal Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Dated this the 13th day of August, 1982

Present:

SHRI N. SUKUMARAN, B. SC., B. L.,

Presiding Officer

In

INDUSTRIAL DISPUTE No. 359 of 1979

Between

The Managing Director, Kerala State Bamboo Corporation Limited, Angamali

And

The workman of the above concern Shri C. D. Joseph, Chakkisseri House, Nayathodu P. O., Angamali.

Representations:—

Shri B. S. Krishnan,
Advocate, Ernakulam. .. For *Management*

Shri K. Janardhanan,
Advocate, Ernakulam. ... For *Workman*

AWARD

The issue referred for adjudication by Government as per G. O. (Rt.) No. 1788/79/LBR dated 18-12-1979 is as follows:—

"Denial of employment to Sri C. D. Joseph, Bundling Supervisor, Grade II with effect from 25-3-1977."

G.A. 170/SMT.

2. Shri C. D. Joseph was working as a Bundling Supervisor under the Kerala State Bamboo Corporation Limited, Angamali. While so his services were terminated with effect from 25-3-1977 by the employer corporation as per Ext. M4 order. The validity of that order is challenged by Shri Joseph. There is no Union espousing his cause. Shri Joseph in his claim statement contends that he was continuously serving as a Bundling Supervisor from 7-2-1974 on a monthly salary of Rs. 350 when he was denied employment on 25-3-1977. He complains that the denial was in violation of all principles of natural justice and claims reinstatement with all benefits.

3. Various contentions are raised by the Management in its written statement. They are the following:—

In the absence of a Union espousing the cause of the workman there cannot be an industrial dispute and the reference is bad for that reason. The reference made under Sec. 10 (1) (c) of the Industrial Disputes Act is incompetent for the reason that an individual worker alone is involved and the reference should have been under Sec. 2-A of that Act. For that reason also the reference cannot be accepted. Even otherwise Shri Joseph is not a workman as that term is defined in the Industrial Disputes Act. He was entrusted with managerial functions and so he cannot claim himself to be a workman. That way also there is no valid industrial dispute. Shri Joseph did not have continuous service from 7-2-1974. He was initially appointed for a term of one year from that day. But his services were terminated on 23-10-1974 invoking the terms and conditions of the appointment order as he had mis-appropriated money. However on his representation the Board of Directors of the Corporation gave him another chance by appointing him as a fresh employee with effect from 17-7-1975 for a period of one year. That was renewed and his conduct even after the re-employment was most unsatisfactory. He committed various irregularities and misappropriations and there were several complaints about him. Shri Joseph was asked to explain those matters. An enquiry was also conducted by a Sub-committee of the Board of Directors. The Sub-committee found that Shri Joseph had given loans in excess of the permissible limits in 115 cases. Considering the conduct of Shri Joseph his services were terminated invoking the powers invested in the Corporation to terminate the services as per the terms and conditions of the appointment order. That is a valid termination as no principles of natural justice were violated. Shri Joseph had actually participated in the domestic enquiry and cross-examined the witnesses examined. He is unfit for continued employment. The Bundling Supervisor should be a person on whom the Corporation has utmost confidence as the has to be entrusted with substantial amounts of cash. Shri Joseph by his acts have proved that he is not worthy of such a confidence and the Corporation cannot reinstate him under any circumstances as it has lost confidence in him. He is not, therefore, entitled to any reliefs.

4. The evidence on the side of Sri Joseph is limited to his own testimony as WW1. The Management had examined MWs 1 and 2 and produced and marked Exts. M1 to M13.

5. I shall first dispose of the various contentions raised by the Management regarding the maintainability of the reference on the basis of the provisions of the Industrial Disputes Act 1947 (hereinafter referred to as the Act). The first contention is that there is no industrial dispute since no Union or other workmen have taken up the cause of Shri Joseph. Section 2-A of the Act is sufficient answer for this objection. Under that Section individual disputes concerning matters including termination (herein this case actually there is a termination as per Ext. M4 eventhough the reference states it as a denial of employment) are deemed to be industrial disputes. So this objection is only to be negatived.

6. Another contention is that the reference should have been made under Section 2-A of the Act instead of Sec. 10 (1) (c) of the Act as the Government is seen to have done. This criticism has also no force as Section 10 (1) (c) is the only provision under which the reference could be made to the Labour Court. Section 2-A of the Act has no application in the matter of exercising powers of reference. So this objection also has no force.

7. Another objection is that Shri Joseph was occupying a managerial position and therefore he cannot claim himself to be a workman as that term is defined in Section 2(s) of the Act. Ext. M2 enumerates the functions of Bundling Supervisors. Ext. M3 is a circular concerning the same matter. Admittedly Shri Joseph in his capacity as the Bundling Supervisor was put in charge of one or other of the Depots f the Corporation where his functions mainly are to collect reeds, distributing the same among the weavers, collect the finished products and distribute them to various other places. For this matter he is given advances by way of imprest money which is to be accounted and utilised.. Ext. M2 shows that he has to maintain various records and to forward several statements to the Head Office. There is nothing in Exts. M2 or M3 or the oral evidence to show that the Bundling Supervisor had any managerial functions to be discharged. He was not in any way authorised to make policy decisions or act on his own way. He had only to perform the functions as per Ext. M2 which mostly are clerical and manual. So he cannot be categorised as a managerial personnel. It cannot also be claimed that he is excluded from the definition of the term of the workman for the reason that he is having supervisory capacities as admittedly his salary per mensem was below Rs. 500. So in any event he cannot be taken away from the definition of the term "workman" in the Act. He is, therefore, a workman and the dispute raised by him is an industrial dispute. The objections otherwise have no merit and they are hereby over-ruled.

8. It is admitted by Shri Joseph in his evidence as WW1 that he did not have continuous service from 7-2-1974. He had admitted therein that he

was out of employment from 23-10-1974 to 17-7-1975. The Management's case that he was re-employed as a fresh entrant after the termination on 23-10-1974 on 17-7-1975 and that he had continuous service only from that day when terminated as per Ext. M4 is not now disputed. Even then he had more than one year's continuous service when the termination was effected. The Management claims that it had every right to terminate the services as per the terms and conditions of the appointment order, copy of which is Ext. M12. Clause one of that order reads as follows:—

> "The appointment is on contract for a period of one year during which period the Corporation reserves the right to terminate their services even without assigning any reason thereof."

It is this clause that is invoked in Ext. M4 order. Ext. M4 is a simple termination without assigning any reasons. Even though the Management had authority to issue such an order it amounts to a retrenchment as that term is defined in the Act and therefore it should have been in accordance with the formalities stipulated by Section 25F of the Act. Such formalities had not been complied in the matter of this termination and therefore it cannot be valid in law as has been held in a series of recent Supreme Court decisions. It is unnecessary to quote these decisions as the law is well settled now that such terminations are illegal.

9. The Management has an alternate case that Shri Joseph was guilty of serious misconducts and that he was given an opportunity to explain his position regarding that aspect and in fact an enquiry in which Shri Joseph participated was conducted before terminating his services and therefore the termination can be supported as a punishment awarded in a disciplinary proceedings. According to the employee the Management cannot now argue for that position since Ext. M4 is a simple order of termination. The employee has a further case that there was no enquiry to his knowledge. But we have documentary evidence which shows that Shri Joseph was asked to explain certain irregularities and that he had in fact submitted his explanation and an enquiry was conducted eventhough the enquiry papers are not produced. Ext. M11 is a memo dated 11-1-1977 admittedly issued to Shri Joseph and his explanation is Ext. M9. Ext. M11 indicates that an earlier memo regarding payments to weavers in excess of the credit limits was issued to Shri Joseph and his explanation received. What is stated in Ext. M11 is that the explanation is not satisfactory and Shri Joseph is to show cause why disciplinary action should not be taken against him for wilfully misutilising the funds of the Corporation. It was also said therein that he will be held personally liable for the excess amounts outstanding recovery. In the explanation Ext. M9 Shri Joseph states that the Sub-committee of the Corporation had conducted an enquiry and collected evidence. He had further stated that he had already recovered Rs. 2,500 out of the excess payments and that the balance will also be recovered before 31st of March 1977. It was also stated that excess amounts were paid not wilfully but because of the

unsettled stage of the accounts. Exts. M9 and M11 taken together are sufficient to say that there was a domestic enquiry to the knowledge of Shri Joseph and the contention otherwise advanced by him is not true. Ext. M4 termination had followed soon after Ext. M9. So it is evident that the termination was the ultimate result of the domestic enquiry conducted into the charges. Hence in effect it is a punishment eventhough it is innocently worded as a simple order of termination.

10. Now the question is as to whetherthe Management can rely on the misconduct before this Court to sustain the termination. According to the employee the Management has no such right. But the Management relies on the decision of the Supreme Court in *Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha* (1980 I. L. L. J. 137). That was a case where the Management simply terminated the services of the workmen, but attempted to substantiate the allegations of misconducts against them before the Arbitrator. The Court said in para 72 of the judgment as follows:

> "72. The law is trite that the management may still ask for an opportunity to make out a case for dismissal before the Tribunal. The refinements of industrial law in this branch need not detain us because the arbitrator did investigate and hold that the workmen were guilty of misconduct and the 'sentence' of dismissal was merited, even as the High Court did reappraise and reach, on both counts the reverse conclusion."

Para 77 which reads as follows is also relevant:—

> "77. If misconduct was basic to the discharge and no enquiry precedent to the dismissal was made the story did not end there in favour of the workmen. The law is well settled that the Management may still satisfy the Tribunal about the misconduct."

The above observations are sufficient answer to the stand taken up by the learned counsel appearing on behalf of the workman. The position, therefore, is that the Management can still satisfy that actually the termination was by way of a punishment for a misconduct. Therefore it is at liberty to substantiate the case of the misconduct by fresh evidence before this Court.

11. The Management had already adduced evidence in support of the misconduct attributed. Counter evidence on that aspect is also available on the side of the worker. So we need only consider the available evidence to see whether the miscondact is established.

12. The Management has a case that various complaints were raised against Shri Joseph by the weavers. There is also an allegation that he had misappropriated amounts. But no evidence is adduced on these aspects. MW1, a Divisional Officer of the Management Corporation, does

not give any concrete evidence regarding the misconducts attributed to Shri Joseph. There are only some general statements by him. That is no acceptable evidence to say that Shri Joseph is guilty of the misconducts attributed to him. MW2 is the Vigilance Officer of the Corporation. He states that he had inspected the Depot that was in charge of Shri Joseph and detected the shortage in cash on such an inspection. He too has not given the details regarding the shortage. Shortage in cash is not seen to have raised as a charge against Shri Joseph in Ext. M11. So the evidence of MW2 is also of no use in considering the misconduct attributed to Shri Joseph. The Management cannot rely on misconducts that were not the subject matter of its action on the basis of Ext. M11. Excess payments alone is mentioned in Ext. M11 as an irregularity. But the allegation that there were excess payment is admitted in Ext. M9. Some instances of excess payments are also proved by the production of Ext. M13 ledger. The proof by Ext. M13 is only an admitted fact of excess payment. So all that is established against Shri Joseph is that he made payments in excess of the permissible limit to weavers. A misconduct to that extent is established.

13. Now remains the question as to what relief Shri Joseph is entitled to. The misconduct proved taken by itself may not ordinarily be a ground to deprive an employee of his job. But the Management has a case that Bundling Supervisor's post is one which requires utmost confidence as it involves handling of substantial amounts and it has lost its confidence in Shri Joseph.. It is also pointed out that this is not the first time that Shri Joseph behaved in a manner that he should not have done and that he did not improve inspite of the fact that he was given a chance. As mentioned already the services of Shri Joseph was terminated on a previous occasion on 23-10-1974. That happened on detection of serious irregularities in the cash dealings of Shri Joseph. Exts. M5 to M8 are admittedly the submissions made by Shri Joseph in connection with those irregularities. In Ext. M5 dated 5-10-1974 he had admitted that Rs. 1,600 out of a total amount of Rs 10,000 entrusted to him remained to be repaid over and above certain previous amounts and that he will positively repay the amounts on 7-10-1974. On 7-10-1974 he had submitted Ext. M6 stating that he had deposited Rs. 1,100 and the balance will be paid within three days. He did not remit as was undertaken, but submitted Ext. M7 on 10-10-1974 requesting that he may be given some further time for payment. Ext. M8 is another submission for extension of time for payment of the entire balance after making a deposit of Rs. 200 on its date 11-10-1974. It was after these communications that his services were terminated on 23-10-1974. But he was reinstated considering the representations subsequently submitted by him. That representation is Ext. M1. The date given therein is wrongly stated as 9-1-1974 as it can only be 9-1-1975. The Corporation had taken a lenient view on that occasion and he was entertained as a fresh employee. But thereafter also his dealings were not satisfactory. In these circumstances the contention of the Management that it has lost confidence in him has to be accepted as genuine. Termination of the services in the,

circumstances is a valid punishment and I don't find any reason to interfere with the same or grant any other reliefs to Shri Joseph. In the result an award is passed confirming the termination of the services of Shri C. D. Joseph and holding that he is not entitled to any reliefs.

N. SUKUMARAN.
Presiding Officer.

Ernakulam,
13-8-1982.

Appendix

Witness examined on the Workman's side:

WW1 Shri C. D. Joseph.

Witnesses examined on the Management's side:

MW1 Shri P. J. Antony

MW2 ,, K. K. Padmanabhan

Exhibits marked on the Managament's side:

Ext. M1.	Copy of a letter dated 9-1-1974 from Shri C. D. Joseph to the Management.
,, M2.	Office order enumerating the functions of a Bundling Supervisor attached to the Depot, dated 21-2-1974.
,, M3.	Copy of the Circular dated 11-5-1974 issued to the Bundling Supervisors.
,, M4.	Copy of the termination order dated 25-3-1977 issued to Shri C. D. Joseph.
,, M5.	A submission dated 5-10-1974 by Shri C. D. Joseph regarding the remittance of certain amounts.
,, M6.	A submission dated 7-10-1974 by Shri C. D. Joseph requesting for three days' time for the remittance of the amount.
,, M7.	A submission dated 10-10-1974 by Shri C. D. Joseph regarding the remittance of balance amount.
,, M8.	A submission dated 11-10-1974 by Shri C. D. Joseph regarding the remittance of balance amount.
,, M9.	A submission dated 18-1-1977 by Shri C. D. Joseph regarding the excess payment.
,, M10.	A petition dated 16-6-1975 from Shri C. D. Joseph to the Management requesting for re-appointment.

Ext. M11. Copy of an urgent memo dated 11-1-1977 issued to Shri C. D. Joseph asking his explanation for misutilising the funds of the Corporation.

" M12. Copy of the appointment order dated 2-2-1974 issued to 13 persons appointing them as Bundling Supervisors.

" M13. Loan ledger of Weavers for the months of February and March 1977.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 950/82/LBR. *Dated, Trivandrum, 15th September 1982.*

The award of the Labour Court, Ernakulam in respect of the dispute between the Management of Kerala State Bamboo Corporation, Angamali and the workman of the above concern Shri M. K. Ravi, Madathiparambil House, Kidangoor. P.O., Via Angamali received by Government on 17-8-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Dated this the 9th day of August, 1982

Present:

SHRI N. SUKUMARAN, B.SC,B.L.

Presiding Officer
In

INDUSTRIAL DISPUTE No. 321 of 1979

Between

The Management of Kerala State Bamboo Corporation, Angamali

And

The workman of the above concern Shri M.K. Ravi; Madathiparambil House, Kidangoor P.O., Via Angamali.

Representations:-

Shri B.S. Krishnan,
Advocate,
Ernakulam. } For *Management*.

Shri V.K. Gopalakrishna Pillai,
Advocate,
Alwaye-6 } For *Workman*.

G.A. 171/SMT. (1)

AWARD

The Issues referred for adjudication by Government as per G.O. (Rt) No. 1105/79/L&H dated 4-8-1979 are the following:—

"I. Is the termination of the service of Sri. M.K Ravi, Bundling Supervisor Gr. II with effect from 25-3-1977 Justifiable and proper.

"II. If not justifiable and proper to what remedies the worker is entitled to."

2. Shri Ravi was working as a Bundling Supervisor under the employer the Kerala State Bamboo Corporation Ltd., an undertaking of Kerala Government. He was initially appointed for a period of one year with effect from 1-2-1974. The appointment was extended twice for similar periods. While he was so, serving his services were terminated with effect from 25-3-1977 as per Ext. W3 termination order which reads as follows:-

"Shri M.K. Ravi, Bundling Supervisor Grade II is informed that the Board of Directors of the Kerala State Bamboo Corporation Limited, Angamally have decided to terminate his appointment as Bundling Supervisor Grade II in exercise of the provisions under Clause (1) of the terms and conditions of his appointment orders 1st cited. The said clause is extracted below for your reference.

Clause (I) : The appointment is on contract for a period of one year during which period the Corporation reserves the right to terminate his services even without assigning any reason thereof.

Accordingly the appointment of Shri M.K. Ravi as Bundling Supervisor Grade II is hereby terminated with effect from the afternoon of 25-3-1977.

Shri M.K. Ravi will hand over charge of the Depot to Shri Augustine John, Bundling Supervisor Grade II.

Shri M.K. Ravi is also informed that the Board has been pleased to grant him one monthis salary in lieu of notice.

Sd.
GENERAL MANAGER"

The validity of that termination is what is challenged by the employee. There is no Union espousing the cause of the workman and the workman himself is therefore prosecuting his case.

3. The workman in his claim statement contends that the General Manager of the Corporation was not pleased with him because of his activities as the Secretary of the Kerala State Bamboo Gorporation Staff

Association and therefore he was warned that his services will be terminated if he continues the Union activities and that the termination was effected as threatened in order to victimise him for not stopping such activities. The termination was effected by the Management without initiating disciplinary action and conducting a proper domestic enquiry. Some allegations concerning deficiency in reeds and non-accounting of cash were, raised in various memos issued to the workman. All these allegations were timely denied by the workman in the explanations submitted by him. The Corporation in fact had on verification found that there was actually no shortage in reeds. The discrepancy in the matter of non-accounting of cash was condoned by the Corporation. Yet his services were terminated taking shelter under the terms and conditions of employement without any valid reasons. The termination amounts to a wrongful dismissal eventhough it is so worded as to appear as one in the exercise of the powers given under the terms and conditions of the appointment. The termination is unsustainable and the workman is to be reinstated with all benefits.

4. The Corporation in its written statement has raised various contention. They are the following:—

In the absence of a Union espousing the cause of the workman it cannot be said that there is a valid industrial dispute. The reference made under Section 10 (1) (c) of the Industrial Disputes Act is not maintainable as the dispute concerns an individual workman and actually the reference should have been made under Section 2-A of the Industrial Disputes Act. Shri Ravi was not a workman as that term is defined in the Industrial Disputes Act as he was performing managerial functions. For all these reasons it has to be held that there is no industrial dispute available for adjudication Even on merits Shri Ravi is not entitled to the benefits claimed. Shri Ravi who was appointed on contract for a period of one year, was serving on extension, from time to time and as per the terms of the contract his services were liable to be terminated without assigning any reason whatsoever and so the termination on 25-3-1977 is perfectly valid and sustainable. As Bundling Supervisor it was the practice to entrust imprest money with Shri Ravi for procuring reeds. A sum of Rs. 5,000 entrusted to him on 19-3-1975 and another amount of Rs 2,200 entrusted on 22-3-1975 were not booked by Shri Ravi in the accounts maintained by him. He had committed temporary misappropriation of those amounts. The discrepancy was ditected by the Accounts Section when the accounts for the year ending 31-3-1975 were scrutinised for the purpose of reconciliation. Shri Ravi was not in a position to give a satisfactory explanation for the discrepancy Therefore an enquiry was conducted into the allegation in which Shri Ravi participated. A sub-committee of the Board of Directors appointed to conduct the enquiry found that the action of Shri Ravi amounts to breach of trust and misappropriation of money. The money was subsequently remitted by Shri Ravi. Still the miscoduct committed by him was grave enough deserving a dismissal. However, the management took a lenient view and terminated his services with the good intention that his career may

not be spoiled altogether. Shri Ravi was therfore able to secure a Government job as L. D. Clerk in the Education Department. That was possible only because Shri Ravi was not dismissed for the misconduct. The allegation that the Corporation authorities had entertained an ill-will towards Shri Ravi on account of his Union activities is false. The fact that the Union is not supporting Shri Ravi is a circumstance to infer that he was not even a member of the Union. If at all he was the Secretary then it was all the more reason why he should have behaved in a more responsible manner in the matter of cash. The General Manager had never told Shri Ravi to sever his connection with the Union. The Management had no reason whatsoever to wreak vengeance on Shri Ravi. Even if it is found that the termination was not proper and legal it is open to the Management to substantiate its case that Shri Ravi was guilty of a misconduct meriting the punishment of dismissal and so the termination has to be treated as a dismissal and the Management allowed to substantiate its case by fresh evidence. Shri Ravi in any event is not entitled to any reliefs.

5. Shri Ravi in his rejoinder contends that he was only an ordinary workman and not a managerial personnel. The allegation that he committed misappropriation of money is denied. It is said that a sum of Rs. 1,000 out of Rs. 7,200 was credited in the accounts and the balance spent for collecting the reeds. There was no enquiry into the allegations by any Sub-committe to the knowledge of the workman. The workman has no alternate employment and the allegation that he has a job in the Education Department is not true. There is a vaild industrial dispute and the contention otherwise is not tenable.

6. The evidence in the case consists of the testimony of WWs. 1 to 3, MWs. 1 to 3, Exts. W1 to W9 and M1 to M7.

7. The reference is made by Government as per Section 10 (1) (c) of the Industrial Disputes Act (the Act for short). The Management's contention that the reference should have been made under Section 2-A of the Act has no force as Section 10 alone gives power for Government to make reference. Sec. 2-A was introduced in the Act only to clarify the position that individual disputes in the cases referred therein will also be deemed to be industrial disputes even when it is not espoused by other workmen or a Union. So the contention that the reference is made invoking a wrong provision of the Act is not tenable.

8. Another contention is that Shri. Ravi, was occupying a managerial position and therefore he is not a workman as that term is defined in the Industrial Disputes Act. It is also said that in any event he is a Supervisor and that way also he cannot claim himself to be a workman. But the evidence is that he was drawing less than Rs. 500 as remuneration per mensem at the time of his termination and therefore he cannot be excluded from the category of workman for the reason that he was a Supervisor. Much reliance is placed by the learned counsel appearing on behalf of the Management on the duties and responsibilities assigned to the

Bundling Supervisors provided in Ext. M1 which admittedly was applicable to argue that he was exercising managerial functions. It can be seen from Ext. M1 that it was the duty of Bundling Supervisor to maintain soveral records mentioned in clause 7 of Ext. M1. As many as 22 items of registers, records and statements are enumerated under clause 7. It was also his duty to collect reeds, make payments for the same, arrange for distribution of reeds, collect finished products and despatch it to destinations. Major part of the work involved is manual and clerical and he had to act according to the direcitons of his Superiors. MW2 was also a Bundling Supervisor who started service along with Shri Ravi. But he is now a Divisional Officer. He had admitted in so many words before me that Bundling Supervisors are ordinary workers and not manaterial personnel. The evidence does not disclose otherwise. Bundling Supervisors have no authority to make policy decisions or to act in their own way. Invariably they have to take instructions from the Superiors and act accordingly. In these state of affairs the contention that Shri Ravi, was discharging managerial functions cannot be accepted. On the other hand the evidence available is sufficient to say that he was mostly performing supervisory and clerical work. So he was a workman as that term is defined in Sec. 2 (s) of the Act. The supervisory part of his work cannot exclude him from the definition as his pay was less than Rs. 500. So Shri Ravi, was a workman and the dispute therefore is an industrial dispute as that term is defined in the Act.

9. Now we have to consider as to whether Ext. W3 termination is valid in law. I have already extracted the relevant order in the beginning portion of the award. The phraseology employed indicates that the termination was effected invoking the provisions contained in clause 1 of the appointment order which also forms part of the order of termination. The order on its face value looks like an innocent discharge simplicitor. Even if it is assumed that it is a termination without attaching any stigma it amounts to a retrenchment as defined in Section 2 (00) of the Act as has been held in a series of recent decisions of the Supreme Court. So even if it is assumed that Ext. W3 is a simple termination it connot stand as legal and valid in so far as the due formalities provided under Sec. 25F of the Act have not been complied.

10. The Management has an alternate case that the termination eventhough made in the manner appearing in Ext. W3 was in effect a punishment for misconduct. The Management had also pleaded in the written statement that it may be permitted to establish the misconduct in case it is found that the termination cannot be supported for any reason. The stand taken up by the workman is also that he was actually punished by way of victimisation. Now the question arises as to whether the Management can turn round while having effected a simple termination to say that it was actually a dismissal under a cover not to attach any stigma to the termination and thereby save the workman from serious cansequences affecting his future. According to the learned counsel for the workman an

order of reinstatement of the workman can straight away be passed when it is found that the termination is not sustainable and it is not open to the Management to attempt to substantiate a misconduct and thereby support the termination as a punishment.

11. A similar question was answered by the Supreme Court in Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha (1980 I L.L.J. 137). That was a case where the Management simply terminated the services of the workmen, but attempted to substantiate the allegations of misconducts against them before the Arbitrator. The Court said in para 72 of the judgment as follows:—

> "72. The law is trite that the management may still ask for an opportunity to make out a case for dismissal before the Tribunal. The refinements of industrial law in this branch need not detain us because the arbitrator did investigate and hold that the workmen were guilty of misconduct and the 'sentence' of dismissal was merited, even as the High Court did reappraise and reach, on both counts, the reverse conclusion."

Para 77 which reads as follows is also relevant:—

> "77. If misconduct was basic to the discharge and no enquiry precedent to the dismissal was made the story did not end there in favour of the workmen. The law is wellsettled that the management may still satisfy the Tribunal about the misconduct."

The above observations are sufficient answer to the stand taken up by the learned counsel appearing on behalf of the Management. The position, therefore, is that the Management can still satisfy that actually the termination was by way of a punishment for a misconduct. There is a contention for the Management that there was an enquiry at the domestic level. But it is not proved that there was one. But the evidence indicates that the misconduct of misappropriation was raised against the workman in the memos issued to him and he was asked to explain. He had submitted several explanations. Those communications are also referred as references in Ext. W3 eventhough not discussed in the body of the same. So actually this is a case where the termination was effected as a punishment without a proper enquiry. It is well settled that the Management can adduce fresh evidence before Court even in cases where there was no enquiry. There is no distinction in the matter of right to adduce fresh evidence between cases of defective enquiries and absence of enquiries. The decision of the Supreme Court in Workman of Firestone Tyre & Rubber Company v. Management (1973 I LLJ 278) is authority for that position. Hence it is open to the Management to substantiate the allegations by way of fresh evidence before this court at this stage.

12. The Management had already adduced evidence in support of the misconduct attributed. Counter evidence on that aspect is also available on the side of the worker. So we need only consider the available evidence to see whether the misconduct is established.

13. As already mentioned Bundling Supervisors are provided with imprest money to effect colletcion of reeds, transportation of the same to the destinations and allied matters. The evidence is that Rupees 25 to 30 thousand is normally advanced in instalments according to the needs of the situation to them. It is common case that a sum of Rs. 5,000 was advanced to Shri Ravi on 19-3-1975 and another sum of Rs. 2,200 on 22-3-1975 for which he had passed Exts. M5 and M6 receipts respectively. Those payments are booked in Ext. M7 cash book maintained by the Management Corporation on the respective dates and the relevant entries appearing at pages 556 and 560 of the book are Exts. M7 (a) and M7 (b). But corresponding entries were admittedly not made by Shri Ravi in the accounts maintained by him. This was detected later and Shri Ravi was asked to explain the position. Even before that there was some discrepancy regarding the quantity of reeds collected by Shri Ravi and the accounts submitted by him on that behalf. So he was issued Ext. W1 memo dated 24-9-1975 to explain the discrepancy regarding the quantity of reeds. After some correspondence on the matter it was closed with a warning as per Ext. W5 memo dated 24-1-1977. We are not concerned with the shortage in reeds as the matter had already been closed by the Corporation by issuing a warning. So we cannot consider the shortage as a misconduct and it is unnecessary to scrutinise the evidence on that aspect any further. The management's case is that Shri Ravi had misappropriated atleast temporarily the amount of Rs. 7,200. But it is conceded that Shri Ravi had accounted Rs. 1,000 on 12-2-1975 when as a matter of fact there was no such advance on that day, though it is previous to the dates of Exts. M5 and M6. There is a credit to the extent of Rs. 1,000 when there was no such advance and in effect the actual amount unaccounted is only Rs. 6,200. According to the Corporation Shri Ravi had made certain re-payments towards this amount subsequently in the latter half of 1976 as per Exts. W4 series receipts and that way substantial part of the amount had also been deposited. Because of those deposits the Management concedes that the misappropriation was only temporary. But Shri Ravi has no cause that he had effected the payments under Exts. W4 series towards the disputed amount. What he states in his evidence as WW1 is that those payments relate to some other transactions and that they were not voluntarily made but paid under compulsion. But the more impotant question is as to whether Shri Ravi had failed to account the amounts received as per Exts. M5 and M6 without any just cause.

14. A series of memos were issued to Shri Ravi regarding the non-accounting. They are given as references in Exts. W3 termination order. Some of them and the explanations submitted by Shri Ravi are marked in evidence. Ext. M2 is a memo dated 16-3-1976 in which it was pointed

out that amounts as per Exts. M5 and M6 were not accounted by him and that even after deducting the excess credit of Rs. 1,000 on 12-2-1975 a balance sum of Rs. 6,200 is due for accounting. He was also asked to explain why and how the ommissions occurred. The explanation submitted by him is Ext. M2 (a). There he had said that there was very heavy pressure of work in the matter of collection of reeds and an inadvertant ommission had occurred. He was again told in Ext. M3 memo dated 9-4-1976 that the explanation submitted is not satisfactory. He was also informed that he had temporarily misappropriated Government money and he is liable to be proceeded against in disciplinary action for such misappropriation and negligence in duties. Thereupon Shri Ravi submitted Ext. M4 wherein he had given details of the collections made by him till 31-3-1975 and thereafter. He stated further that he omitted to make entries regarding the receipts in his diary some how or other and therefore it could not be carried forward to the cash book. There was some more correspondence on the subject including that of the shortage in reeds and finally the shortage in reeds was closed as per Ext. W5 dated 24-1-1977. Shri Ravi has a case that the whole matter was closed and thereafter the question of misappropriation taken up because of his Union activities. But Ext. W5 concerns only the shortage in reeds. It does not cover the non-accounting of money. So the position is that there was actual non-accounting for which an excuse is put forward: The excuse given is not a valid explanation as it only mentions that he had somehow forgotten to make the entries in the book. Pressure of work is stated as the reason for the omission. But accounting of the cash received at the appropriate time is an item of work to which utmost preference is invariably to be given. The other items are to be treated as secondary and a plea that accounting was not made due to other pressure of work cannot easily be accepted as genuine. Even if Shri Ravi by some chance failed to account the money in time by way of an innocent mistake it is not possible to forget the substantial sum of Rs. 6,200 which must have been with him in excess of the book balance. When that much money was available with him it was easy for any prudent man like him to refresh his memory of having received that amount and the omission to make necessary entries. So the explanation is only a lame excuse which could be pleaded in any case of non-accounting. When it is rot established by cogent and convincing evidence that there were justifiable reasons for the omission such a plea has to be discarded. I don't find any justification for the non-accounting. When the money was not accounted or utilised for the official purpose the only presumption that could be made is that the money was misappropriated. As already stated the money is said to have been refunded subsequently. So the misappropriation is only temporary.

15 Shri Ravi has a case that he was the Secretary of the Association of the workmen of the C rporation and that the Management terminated his services only because he did not act according to the wishes of the General Manager not to work for the Union. Ext. W6, copy of a communication addressed on the letter head of the Union wherein Shri Ravi is shown as the Kerala State Bamboo Corporation Staff Association Secretary,

is relied on to meet the contention of the Management that it is not aware that Shri Ravi was the Secretary and therefore there was no occasion or necessity to ask him not to work for the Association. There is also the oral evidence of the Management's witness MW2 that Shri Ravi was the Secretary of the Union. So it can be accepted that Shri Ravi was the Secretary. Exts. W7, W8 and W9 notices issued by the Conciliation Officer regarding the dispute that arose on the termination of Shri Ravi's services are relied on to answer the contention that the Union did not take up the cause of Shri Ravi. But we are not very much concerned with the notices as the reference is seen to have been made without the Union as a party. Whatever it be the contention that the Management's action amounts to victimisation cannot stand when we have acceptable evidence to show that Shri Ravi had committed misappropriation which formed the basis of the action. It is also clear from the circumstances of this case that the Management if it wanted to victimise Shri Ravi would very well have dismissed him on the charge of misappropriation. But it is seen to have effected a simple termination only. The submission of the Management that it really had a soft corner for Shri Ravi and it did not want to harm his future by a dismissal seems genuine and that again is a circumstance to negative the plea of victimisation. So the action of the Management was bonafide.

16. Now the position is that Shri Ravi's services were terminated as a punishment eventhough prima facie it is termed as a simple termination. The question is as to whether Shri Ravi is entitled to any reliefs in the matter of that punishment. It is admitted by Shri Ravi as WW1 that he is now employed as a regular Government servent on the basis of a selection made by the Public Service Commission. But he is claiming reinstatement under the Corporation probably because of the fact that others who had joined along with him are well placed in superior positions. It is in evidence that as Bundling Supervisor Shri Ravi had to be entrusted with substantial sums of money. He was not accounting the amounts properly. That being the position the Management cannot be asked to repose further confidence in him and the plea of the Management that it had lost confidence in this employee has to be accepted. So there is no question of ordering reinstatement of Shri Ravi In the circumstances of this case he is not entitled to any other reliefs. I may add before parting with this case that the termination that was effected as a punishment in fact will be treated as a termination simplicitor as was intended by the Management when it effected it and it will not carry any stigma so as to affect the future career of Shri Ravi. I say so because I do not want to give anything by way of punishment to Shri Ravi which the Management did not really intend.

17. In the result an award is passed confirming the termination of services of Shri M. K. Ravi and holding that he is not entitled to any reliefs.

Ernakulam,
9-8-1982.

N. Sukumaran,
Presiding Officer.

G.A 171/SMT. (2)

Appendix

Witnesses examined on the Management's side:

MW1 Shri Rajagopalan. E.
MW2 " K.V. Francis.
MW3 " Jose Vattoly.

Witnesses examined on the Workman's side:

WW1 Shri Ravi, M. K.
WW2 " Augustine.
WW3 " Yacob.

Exhibits marked on the Management's side:

Ext. M1. Copy of an Office Order dated 21–2–1974 prescribing the functions of a Bundling Supervisor.
,, M2. Copy of a memo dated 16–3–1976 issued to Shri Ravi by the Management calling for his explanation for certain omission to enter amounts in the account book.
,, M2 (a). Copy of the explanation of Shri Ravi dated Nil.
,, M3. Copy of a memo dated 9–4–1976 issued to Shri Ravi by the Management to submit his explanations on certain points.
,, M4. Explanation of Shri Ravi dated 26–4–76.
,, M5. Cash voucher No. 3471 dated 19–3–1975 for Rs. 5,000.
,, M6. Cash voucher No. 3518 dated 22–3–1975 for Rs. 2,200
,, M7. Cash book of the Bamboo Corporation from 2–12–1974.
,, M7 (a). Page 556 of Ext. M7.
,, M7 (b). Page 560 of Ext. M7.

Exhibits marked on the Workman's side:

Ext. W1. Copy of a memo dated 24–9–1975 issued to Sarvasree Yacob; Ravi and Francis.
,, W2. Fifth Annual Report and Accounts 1974–75 of the Bamboo Corporation.
,, W3. Termination order dated 25–3–1977 issued to Shri M. K. Ravi.
,, W4. A receipt for Rs. 223.69 signed by Shri Jose Vattoly on 30–3–76.
,, W4 (a). A receipt for Rs. 500 dated 8–9–1976 issued to Shri M. K. Ravi from the Bamboo Corporation.
,, W4 (b). A receipt dated 1–9–1976 for Rs. 326 issued to Shri Ravi from the Bamboo Corporation.

Ext. W4 (c). A receipt dated 31-8-1976 for Rs. 500 issued to Shri Ravi from the Bamboo Corporation.

" W4 (d). A receipt dated 10-8-1976 for Rs. 1800 issued to Shri Ravi from the Bamboo Corporation.

" W5. A memo dated 24-1-1977 issued to Shri Ravi giving a warning by the Management.

" W6. An unsigned letter dated 2-7-1977 in the letter head of Kerala State Bamboo Corporation Staff Association.

" W7. Conference notice dated 19-10-1977 issued by the District Labour Officer.

" W8. Conference notice dated 4-11-1977 issued by the District Labour Officer.

" W9. Conference notice dated 23-12-1977 issued by the Deputy Labour Officer.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 881/82/LBR *Dated, Trivandrum 12th August 1982.*

The award of the Labour Court, Ernakulam in respect of the dispute between the Managing Director, Venugopal Company (P) Ltd., Chalakudi and the workman of the above establishment Shri K. K. Narayanan, Kappully Parambil House, P. O. Annallur, via Chalakudi, Trichur District received by Government on 9-8-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Dated this the 30th day of July, 1982.

Present :

SHRI N. SUKUMARAN, B. SC., B. L.
Presiding Officer.

INDUSTRIAL DISPUTE No. 42 OF 1979
(Old No. I. D. 28 of 1977)

Between

The Managing Director, Venugopal Company (P) Ltd., Chalakudi

And

The workman of the above establishment Shri K. K. Narayanan,
Kappully Parambil House, P. O. Annallur,
via Chalakudi, Trichur District.

Representations :—

Shri M. Venugopalan,
Advocate, Trichur. } For *Management*

Shri K. V. K. Panicker, President
Sh p Employees' Organisation,
Trichur. } For *Workman*

AWARD

The issue referred for adjudication by Government as per G. O. (Rt.) No. 512/77/LBR dated 30-4-1977 is "Dismissal of Shri K. K. Narayanan".

2. The employer is a private limited Company and it was engaged in conducting Kurries in connection with which Shri Narayanan was working as a Line Checker-cum-Organiser. It was one of his duties to visit the subscribers and to verify whether payments made by them to the Bill Collectors engaged for that purpose were properly accounted. The Management's case is that a complaint raised by MW3 Smt. Mary that payments made by her as subscriptions towards two kuries to the Bill Collector Shri Kochappan (examined as WW2 in the case) were not properly accounted was not reported to the Management by Shri Narayanan and that in fact Shri Narayanan and Shri Kochappan connived together to misappropriate the amounts paid by Smt. Mary and in some other similar instances. Shri Narayanan was therefore placed under suspension as per Ext. W3 order dated 4-12-1975 to which he submitted Ext. W4 reply. Some other communications were also exchanged between the parties and finally the Management on 4-2-1976 issued Ext. W8 charge-sheet raising the following allegations against Shri Narayanan :—

(i) He did not report to the Company instances of misappropriation committed by Shri Kochappan brought to his notice by customers.

(ii) Himself and Shri Kochappan together committed misappropriation of money collected from subscribers.

(iii) When questioned about the above allegations he behaved in an indecent manner to the Managing Director of the Company.

(iv) He refused to accept a memo issued to him on 27-11-1975 and abused the Managing Director.

(v) He filed a false complaint before the Inspector of Police, Chalakkudy against the Managing Director and thus defamed him.

(vi) Insubordination is not having accepted a transfer to the Palghat Branch.

(vii) Absence without leave from 26-11-1975 to 29-11-1975. Shri Narayanan filed his explanation to the charge denying the allegations. Thereafter the Management conducted an ex parte enquiry and dismissed Shri Narayanan. Correctness of that dismissal is the matter under contest.

3. Shri Narayanan in his claim statement attacks the dismissal as wholly unsustainable. The allegations against him are denied and it is further contended that the enquiry was conducted without giving him an opportunity to defend himself. Reinstatement with all benefits is claimed by him.

4. The Management in its written statement defends its action by alleging that Shri Narayanan was really guilty of the misconducts attributed to him and that the same was properly established in a domestic enquiry conducted by an Advocate appointed for that purpose. The enquiry happened to be ex parte only because Shri Narayanan who had sufficient notice of it purposely abstained. There are no reasons whatsoever to interfere with the dismissal. Even otherwise the Management has lost confidence in Shri Narayanan and he cannot therefore be entertained in service under any circumstances.

5. The Management did not adduce any evidence to show that it had conducted a domestic enquiry as claimed by it. Therefore I held as per my order dated 7-5-1980 that there was no proper or valid domestic enquiry. That order is appended to this award as an "Annexure". Thereupon the Management offered to adduce fresh evidence before this Court to substantiate the charges. They were given an opportunity to do so. Availing of that opportunity the Management had examined MWs. 1 to 4 and produced and marked Exts. M1 to M12. The affected workman gave evidence as WW1 and Shri Kochappan was examined as WW2. Exts. W1 to W9 were also marked.

6. Now we have to see how far the evidence available is sufficient to substantiate the charges against Shri Narayanan. The Management's case is that the misconduct attributed to Shri Narayanan and the Bill Collector Shri Kochappan came to light on enquiries made when MW3 Smt. Mary raised a complaint as per Ext. M3. Ext. M3 is a post card dated 22-11-1975. The postal seal shows that it was posted on the same day. It was received by the Management in the ordinary post and the Management is said to have conducted informal enquiries regarding the genuineness of the allegations contained therein. The fact that the post card was posted raising a genuine complaint is spoken to by MW3. The fact of it having been received in time is stated by the present Managing Director of the Management Company as MW2. MW2's father was the Managing Director at the relevant time in 1975 and 1976. He is now no more. The complaint stated in Ext. M3 is that payments made as subscription to Shri Kochappan to the tune of Rs. 395 was not officially acknowledged. There is no mention in Ext. M3 that MW3 had raised a complaint of non-accounting to Shri Narayanan. However MW3 states before me that she had raised the complaint before Shri Narayanan even before the issue of Ext. M3 card. But it is not known as to why she did not mention in Ext. M3 that a complaint was raised before Shri Narayanan. If as a matter of fact she had earlier complained to Shri Narayanan also then naturally she would have mentioned that fact in Ext. M3. It is true that MW3 has attempted to explain the omission. What is stated by her is that the payments were made to Shri Kochappan and so she felt it unnecessary to refer to the complaint made to Shri Narayanan. But that explanation is far from convincing. Shri Narayanan is the person who was authorised to ascertain from the customers as to whether they have any complaint regarding non-accounting of payments made by them. So he occupies a position of

that of a superior officer of the Bill Collector. When a complaint is raised to the employer regarding non-accounting it is only natural for a subscriber to state that no steps were initiated to rectify the mistake in spite of the fact that the Line Checker was informed of the same. In these state of affairs the story of MW3 that she told Shri Narayanan of the non-accounting by Shri Kochappan cannot be accepted as genuine. We have no other evidence to show that Shri Narayanan in fact had visited MW3 and received a complaint regarding Shri Kochappan from her. There is also no evidence to show that Shri Narayanan is guilty of misconduct in having suppressed complaints of any other customer. Same is the case regarding the allegation that misappropriation was committed by Shri Narayanan in connivance with Shri Kochappan. So item Nos. 1 and 2 of Ext. W8 charge are not established at all.

7. Item Nos. 3 and 4 of the charge can be considered together. MW2, the present Managing Director, was not working in the Head Office of the Company at the relevant time. It is the admitted case that he was in charge of the Palghat Branch at that time. He states in general terms that Shri Narayanan misbehaved to his father, the then Managing Director, when asked about the irregularities and misappropriation. But he does not give the details. It is only normal to think he who was in charge of another branch would not have been present in the Head Office to witness the alleged incidence. So his testimony is of no help on this aspect. MWs. 1 and 4 are examined to speak that Shri Narayanan misbehaved towards the Managing Director and uttered obscene words against him. MW1 claims in chief examination that he was a Line Checker of the Management Company from 1969 to 1976. He states further that he had occasion to do collection work along with Shri Narayanan. But it is not the case of the Management that two Line Checkers go in a company for effecting checking or collections. So the further version of MW1 that he had occasion to receive several complaints against Shri Narayanan, a co-checker, appears highly artificial. The employee has a case that MW1 was not working in this Company and that he was only a domestic servant of the Managing Director. This case appears probable as MW1's name does not find a place in Ext. M1 acquittance roll. But the Management relies on Ext. M2 another acquittance roll, at page 51 of which the name of MW1 appears as one of the several persons who have received payments in January 1973. It is claimed that Ext. M2 is a book maintained for payment of stipend to probationers. It is not known as to how he who was a probationer had occasion to receive complaints against a permanent and senior employee. In these state of affairs the version of MW1 cannot be accepted as true. MW4 claims that he started as a clerk of the Management Company in 1975 and that he was present when Shri Narayanan misbehaved in the office towards the then Managing Director. But his name does not find a place in Ext. M4 Attendance Register relating to the employees of the concern. This discrepancy is pointed out by the defence to show that he was also not an employee and that he is brought forward to speak a false story. But the

Management relies on page 132 onwards of Ext. M2 wherein the name of this witness is also seen entered as an apprentice receiving stipend. It is admitted by MW4 that several other permanent employees senior to him were present when Shri Narayanan is said to have misbehaved towards the Managing Director. But none of them are examined. In these state of affairs it is highly unsafe to act on the solitary version of MW4 that Shri Narayanan misbehaved towards the Managing Director and used abusive language against him. So item Nos. 3 and 4 of the charge are also not proved by acceptable evidence.

8. No attempt had been made by the Management to establish that Shri Narayanan had filed any false complaint against the then Managing Director before Police. It goes without saying anything further that that charge is not at all proved.

9. It is admitted by Shri Narayanan as WW1 that he was transferred to Palghat and that that transfer was cancelled because of the interference of the Police. The fact that the transfer order was cancelled is not in dispute. Since the order of transfer was cancelled by the Management itself, it cannot now raise the disobedience of that order as an item of misconduct. So it cannot be said that item No. 6 of the charge amounts to a misconduct.

10. Ext. M4 attendance Register shows that attendance had not been marked by Shri Narayanan from 26-11-1975 onwards. But it is in evidence that Line Checkers do not attend office regularly on every day. They are given a programme for tours in connection with their duty and they have to visit various places according to the advance programme which covers a period consisting of three or four days. The attendance is marked only when they return from their tour. So the fact that he did not mark attendance for four days cannot be treated as a misconduct of absence without leave. So this charge is also not available for punishment.

11. From what has been stated above it follows that the Management did not succeed in establishing the truth of the allegations against Shri Narayanan.

12. Now remains the question of the relief to which the employee is entitled. Normally he is entitled for reinstatement with benefits. But the Management has a case that it has lost confidence in Shri Narayanan. The duties that are assigned to Shri Narayanan as an Organiser-cum-Checker is one which requires utmost confidence of the Management. It is in evidence that the relationship had actually strained for some reason or other. Even on the admission of Shri Narayanan his transfer order was cancelled by the intervention of the Police. The Management cannot normally be expected to have further faith in an employee who had caused the intervention of the Police in a matter of transfer. It is also in evidence that Shri Narayanan has other source of income from his properties to support himself. The Management has a case that he is conducting a tea shop of his own. This allegation is denied by him. However he had admitted that there is a tea shop in one of his buildings situated

adjacent to his residence. His case is that his brother-in-law residing with him is actually conducting the tea shop as his tenant. The admission is to the effect that one of the members of his household is conducting the tea shop. Whatever it be he has sufficient other alternate source of income to support himself and naturally he must have been attending to his personal affairs during the broken period. In these state of affairs reinstatement with backwages is not called for. Adequate compensation in lieu of reinstatement will be sufficient. Ext. M1 shows that Shri Narayanan was drawing Rs. 125-10 in October 1975. He was also earning some commission regarding the quantum of which there is no evidence. He had put in nearly ten years of service when he was dismissed. An amount of Rs. 4,000 by way of compensation will be sufficient in the circumstances.

13. In the result an award is passed directing the Management to pay a sum of Rs. 4,000 (Rupees four thousand only) to Shri K. K. Narayanan. Shri Narayanan will not be entitled to any other relief. This amount will carry interest at the rate of twelve per cent from the date on which the award becomes enforceable.

Ernakulam,
30-7-1982.

N. SUKUMARAN,
Presiding Officer.

ANNEXURE

In the Labour Court, Ernakulam.

Dated this the 7th day of May, 1980

Present:

SHRI N. SUKUMARAN, B.SC., B.L.,
Presiding Officer

In

INDUSTRIAL DISPUTE No. 42 of 1979
(Old No. I. D. 28 of 1977)

Between

The Managing Director, Venugopal Company (P) Ltd., Chalakudi

And

The workman of the above establishment Shri K. K. Narayanan, Kappully Parambil House, P. O. Annallur, via Chalakudy, Trichur District.

Representations:—

Shri Ismayel,
Advocate, Trichur-3. .. For *Management.*

Shri K. V. K. Panicker,
President,
Shop Employees' Organisation,
Trichur. .. For *Workman.*

Order

Dismissal of Shri K. K. Narayanan is the issue referred for adjudication by Government. The stand taken up by the Management is that the dismissal is effected after a proper domestic enquiry. The employee on the other hand contends that there was no domestic enquiry at all. In view of these rival contentions the validity of the domestic enquiry, if any, was tried as a preliminary issue in which the Management was asked to produce the records in connection with the enquiry said to have been conducted. The Management took a large number of adjournments for production of the relevant papers. But no records in connection with the enquiry were produced inspite of the fact that they were ordered to produce the same. Therefore I posted the case for oral evidence on the question of domestic enquiry. Then again the Management failed to adduce any evidence. In this background the case was taken up for arguments. Then it is submitted vehemently on behalf of the Management by the learned counsel that there was a subsquent development in which the Management was seriously handicapped by the passing away of the then Managing Director and that is the reason why the relevant documents could not be produced. The argument repeated is that the relevant documents can be produced if sufficient time is allowed. It needs hardly be stated that no purpose will be served by protracting the matter by allowing more opportunities for the performance of an act which is almost impossible. Then it follows that there are no records before me from which it could be said that there was an enquiry. It needs hardly be stated that the validity of the enquiry cannot be scrutinised in the absence of the records. So I hold that there was no proper domestic enquiry.

Dictated to the Confidential Assistant in open court on this the 7th day of May, 1980.

N. Sukumaran,
Presiding Officer.

Appendix

Witnesses examined on the Management's side:

MW1. Shri Prakashan, P. P.
MW2. „ Manoharan, M. A.
MW3. Smt. Mary Joseph.
MW4. Shri Mahadevan.

Witnesses examined on the Workman's side :

WW1. Shri K. K. Narayanan.
WW2. Shri Kochappan.

Exhibits marked on the Management's side :

Ext. M1. Wages Register of Venugopal Company from 1-1-1975 to 30-12-1975 (12 sheets).
„ M1 (a) Wages Register sheet for the period 1-10-1975 to 31-10-1975.
„ M1 (b). Do. month of March 1975.

Ext. M2. Wages Register of Venugopal Company from 30-1-1972.
,, M3. A post card addressed to Venugopal Company by Smt. Mary on 22-11-1975.
,, M4. Attendance Register for the year 1975.
,, M4 (a). Relevant page of the Attendance Register for the month of 1975.
,, M5. Kuri pass book of Kuri No. 75 issued to Smt. Mary.
,, M6. Kuri pass book of Kuri, No. 75 (Division C) issued to Smt Mary.
,, M7. A receipt dated 18-8-1975 executed by Shri K. K. Narayanan for receiving certain records and cash from J. V. Bankers.
,, M8. A receipt dated 8-9-1975 executed by Shri K. K. Narayanan for receiving cash from J. V. Bankers.
,, M9. The explanation of Shri K. K. Narayanan dated 1-12-1975.
,, M10. An agreement executed in favour of the Management by Sarvasree Narayanan, Govindan and V. K. Velayudhan on 30-5-1966.
,, M11. Kuri pass book of Kuri No. 23 issued to Shri Esthappanose.
,, M12. A communication dated 7-2-1976 from Shri Narayanan to the Management.

Exhibits marked on the Workman's side :

Ext. W1. A communication dated 4-12-1975 from Shri Narayanan to the Management.
,, W1 (a). Postal acknowledgement signed by the Management.
,, W2. A letter dated 4-12-1975 from Shri Narayanan to the District Labour Officer.
,, W3. A communication dated 4-12-1975 from the Management to Shri K. K. Narayanan.
,, W4. Reply notice dated 12-12-1975 sent to the Management by Shri Narayanan.
,, W4 (a). Postal receipt dated 12-12-1975.
,, W5. Dismissal notice dated 22-3-1976 issued to Shri Narayanan.
,, W6. A communication dated 25-3-1976 from Shri Narayanan to the Management.
,, W7. A petition dated 25-3-1976 from Shri Narayanan to the District Labour Officer.
,, W8. Copy of the charge-sheet dated 4-2-1976 issued to Shri Narayanan.
,, W9. A registered communication dated 6-12-1975 addressed to Shri Narayanan.

Kerala Gazette No. 46 dated 23rd November 1982.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 900/82/LBR. *Dated, Trivandrum, 17th August 1982.*

The award of the Labour Court Ernakulam in respect of the dispute between the President, the Panangad Service Co-operative Society Limited No. 655, Panangad P. O., Cochin-13 and the workman of the above concern Shri P. V. Antony, Peechanat House, Panangad P. O., Cochin-13 received by Government on 10-8-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act, XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Dated this the 3rd day of August, 1982

Present:

SHRI N. SUKUMARAN, B. SC., B. L.,

Presiding Officer

INDUSTRIAL DISPUTE No. 91 of 1980

Between

The President, the Panangad Service Co-operative Society Limited, No. 655, Panangad P. O., Cochin-13

And

The workman of the above concern Shri P. V. Antony, Peechanat House, Panangad P. O., Cochin-13

Representations :

Shri M. V. Joseph, Advocate, Ernakulam. .. For *Management*

Shri Stanley Fernandez, Advocate, Cochin-2 .. For *Workman*

G.A. 158/V.

AWARD

Dismissal of Shri P. V. Antony by the Panangad Service Co-operative Society Limited, Panangad, hereinafter referred to as the Society, is the issue referred for adjudication by Government as per G. O. (Rt.) No. 1237/80/LBR dated 2-9-1980. Shri Antony was the Secretary at the time of his dismissal.

2. The workman complains in the charter of demands appended to the reference and the pleadings before this Court (claim statement and rejoinder) that he was dismissed without any valid reasons. It is further alleged by him that there was a parallel criminal proceedings against him alleging that he had committed misappropriation before the Special Judge, Trichur and that the prosecution ended in his acquittal. He claims reinstatement with all benefits.

3. The Management in its written statement contends that Shri Antony who was the Secretary of the Society misappropriated amounts to the tune of Rs. 8,142 81. He was asked to explain the charge of misappropriation. The explanations filed by him were unsatisfactory. So he was dismissed from service. The dismissal was on 1-1-1972 and the dispute was raised only in 1978. The delay is not explained and is fatal to the claims now advanced. Even otherwise there is no industrial dispute which could be adjudicated by this Court. The remedy available was to approach the Appellate Authority under the Kerala Shops and Commercial Establishments Act. The failure to avail of that remedy is a bar for raising this industrial dispute. The acquittal by the Criminal Court is no ground to say that the misconducts attributed cannot be considered now. The Society is prepared to adduce evidence in support of the charges. The misconduct is grave and the dismissal is a proper punishment. The workman is not entitled to any reliefs.

4. The evidence consists of the testimony of MWs. 1 and 2, WWs. 1 and 2, Exts. M1 to M15, W1 and W2.

5. The contention that an industrial dispute cannot be raised when the shops and Commercial Establishments Act is also applicable is not pressed before me. So it is unnecessary to advert to that aspect.

6. The learned counsel for the Management has vehemently argued before me that the industrial dispute was not raised in time and the inordinate delay is a ground to say that the claim is stale and it has to be rejected for that reason. The dismissal was on 15-1-1972 Before that he was placed under suspension on 1-12-1971. The Management had also filed an arbitration case for realisation of the sum of Rs. 8,142.87 alleged to have been misappropriated before the appropriate authorities of the Co-operative Department. A prosecution was also launched. The workman had questioned the correctness of the proceedings against him before the Co-operative Department by filing an arbitration case. That was dismissed for want of jurisdiction. The prosecution ended in the acquittal of the workman as per Ext. W1 judgement of the Special Judge,

Trichur. That Judgement is dated 10-2-1978. The Society had filed a revision before the High Court from that Judgement. That was also dismissed. The industrial dispute was raised by the workman soon after In these circumstances it cannot be said that the workman was sleeping over his rights for six years and raised the dispute for the first time after that period. In fact he had approached the Officers of the Co-operative Department challenging the disciplinary proceedings against him. There was also a prosecution pending. So it cannot be said that the claim is stale. Hence the contention that there was delay in raising the claim is not acceptable.

7. Ext. M1 is the copy of the show cause notice issued to the workman. That is dated 3-12-1971. The allegation therein was that he had misappropriated a sum of Rs. 8,142.87 being the deficiency in the cash when compared to the cash balance of the accounts of the Society as on 1-12-1971. The explanation submitted by Shri Antony is Ext. M3. There he had alleged that the President and the Board Members are also responsible for the shortage. This explanation was found unsatisfactory and the Society issued Ext. M4 notice dated 25-12-1971 to Shri Antony intimating him that the Director Board of the Society will be conducting an enquiry into the charge of misappropriation against him. In that notice it was alleged that he is guilty of two other items of misconduct and that the enquiry will be conducted into those items also. The additional items raised were the following:—

(i) Alteration in the minutes book of the Society and

(ii) Falsification of accounts of the Society.

In answer to that notice Shri Antony filed Ext. M5 stating that the matter was already been under the consideration of the Deputy Registrar of Co-operative Societies and therefore an enquiry by the Director Board without proper directions from the Deputy Registrar cannot be held. In the light of the stand taken up by Shri Antony in Ext. M5 the Board of the Society resolved on 15-5-1972 to dismiss Shri Antony. The President was authorised to communicate the dismissal order to Shri Antony. It was accordingly done. The resolution and the dismissal order are contained in the copies produced and marked as Ext. M14.

8. Admittedly there was no domestic enquiry. But the Society was prepared to conduct one. It did not materialise only because Shri Antony was not prepared to participate in the enquiry that was proposed. Eventhough there is no domestic enquiry the Management is entitled to substantiate the charges before this court by fresh evidence. They were allowed to do so and they have attempted to prove the charge contained in Ext. M1 viz., the misappropriation of Rs. 8,142.87. No attempt is made to substantiate the two additional charges raised in Ext. M4. So we need only to see as to whether the charge of misappropriation stands established or not.

9. Exts. M8 and M8 (a) are the Day Books of the Society for the relevant period. The closing balance as on 1-12-1971 as per Ext. M (a) book was Rs. 9,089.11. The members of the Director Board including the President verified the cash balance on that day and the actual cash was only Rs. 946.24. There was a deficiency to the tune of Rs. 8,142.87. All the members of the Director Board including the President and the Secretary Shri Antony affixed their signature in the cash book after recording the real position of the balance as per the account and the actual cash balance. The actual cash balance available was handed over to the President. Shri Antony was placed under suspension for the reason that there was huge deficiency in cash. One of the Director Board Members appointed as Honorary Secretary took over charge of the cash and disciplinary proceedings were initiated against Shri Antony.

10. An argument is advanced by the learned counsel appearing on behalf of Shri Antony on the basis of the provisions of Ext. M13 bye-laws of the Society that the Secretary is not the custodian of cash and the President as the ex-officio Treasurer is the person authorised to be in custody of the same and therefore he has to be held liable for the deficiency, if any. Clauses 45 and 46 of Ext. M13 relate to the powers and responsibilities of the President. The cumulative effect of the provisions is that the President if possible must also be the ex-officio Treasurer and in that capacity the President will be responsible for the cash. It also states that the President will have to sign the Day Book in token of having verified and satisfied of the correctness of the accounts and the cash balance. Clause 46 (A) relates to the Treasurer and it states that the Treasurer will be responsible for the cash. Clauses 45, 46 and 46 (A) insist that the Bank accounts should be operated jointly by the President and the Secretary or the President and the Treasurer as the case may be. The various ruties and responsibilities of the Secretary are enumerated under Clause 47d sub-clause (14) of which states that the Secretary can keep in his poss ession only amounts upto Rs. 500. But the limit admittedly had been enhanced by an amendment approved by the Co-operative Department with effect from 11-1-1975 to Rs. 2,000. Admittedly there was no separate Treasurer. The Bank accounts were operated by the President and the Secretary together. Exts. M8 and M8 (a) entries have been signed by the President. The then President was examined before me as MW2 and Shri Antony is WW1. It can be seen from Ext. M8 and M8 (a) that amounts exceeding the permissible limit of Rs. 2,000 was retained from October 1971 onwards. On 4-10-1971 the closing balance was Rs. 3,659.63 and it progressively advanced to Rs. 10,028.80 by the last day of November 1971. It came down to Rs. 9,089.11 when the transactions were closed on 1-12-1971. In the meanwhile on 26-11-1971 Rs. 2,000 was drawn from the Bank even when there was cash balance to the tune of Rs. 7,440.22 on that day after meeting all the expenses. Admittedly the President was also a signatory to the cheque under which the withdrawal was made. The contention of the workman is that the President was actually in charge of the cash and that is why he permitted withdrawal when as a matter of fact the book balance did not justify such a withdrawal.

11. The contention that the President was the custodian of the cash and not the Secretary is made for the first time at the time of the final argument before me. There are numerous earlier occasions on which Shri Antony had explained the deficiency in the cash when compared to the book balance. He did not have a case at any of those stages that the President was the custodian. I shall examine the position taken up by Shri Antony on the previous occasions in the sequence of events. He had filed Ext. M2 explanation in answer to the suspension order as early as on 3-12-1971. In Ext. M2 he did not have a case that he was not keeping the cash and that the President was actually the custodian. That there was a deficiency in cash is admitted therein. But he went on to explain that Rs. 2,000 was spent by him as authorised in the resolution No. 94 dated 9-10-1971 to obtain necessary sanction for the estimate of a godown which the Society intended to construct and that an additional amount of Rs. 2,000 was in the custody of the three of the Board Members with the consent of the President. He also said therein that he must be given an opportunity to scrutinise the accounts and find out as to how the deficiency occurred. He also pleaded that he had not committed any wilful misappropriation and that the accounts are to be scrutinised by some impartial authority. If as a matter of fact he was conscious that the cash balance was not within his responsibility and that actually the President was keeping the same then he naturally would have stated as such in Ext. M2. Then comes Ext. M3 which is in answer to Ext. M1 charge wherein it was stated in unambiguous terms that he was the custodian of the cash and it was his exclusive responsibility to account for the deficiency in the same. The explanation Ext. M3 is a practical repetition of the stand taken up in Ext. M2. There also he did not try to fix the liability on the President. In Ext. M5 reply submitted to Ext. M4 ordering a domestic enquiry the workman repeated his contention that though there is deficiency in cash he cannot be held liable for the same without considering the merits of the explanations already submitted by him. There also he did not try to evade liability by taking shelter under the provisions of the bye-laws. The Society had filed arbitration case No. 1/72 for realisation of this amount with interest from Shri Antony and his sureties. Realisation from Shri Antony and his surety was awarded by the Arbitrator under Ext. M10. The award has narrated the defence that was taken up by Shri Antony as the first defendant in that case. There also a defence on the basis of the provisions of the bye-laws was not taken. But the other contentions as per the earlier explanations are seen repeated with one difference that the amount said to have been spent for obtaining sanction for the godown is given as Rs. 1,800. Then came the defence in a prosecution before the Special Judge, Trichur which ended in Shri Antony's acquittal as per Ext. W1 Judgement. That did not cover the entire amount with which we are concerned. The prosecution related only to receipts of 9-8-1971, 4-10-1971 and 2-11-1971 and the non-accounting of the same. It was alleged therein that he had misappropriated a sum of Rs. 1,430.12. A summary of the statement given by Shri Antony as the accused in that case when questioned on the prosecution evidence finds a

place at pages 15 and 16 of Ext. W1. The explanation to which a reference was made earlier was repeated by him there also. It was after the acquittal under Ext. W1 that he filed the complaint which resulted in the present reference before the Labour Officer. Copy of that complaint is appended to the reference. What is stated therein is that he was acquitted by the Criminal Court of the charges of misappropriation and actually there was no misappropriation and there was only some arithmetical error in the accounts and also the failure to account for the amounts spent in connection with the sanction for the godown. There is no whisper about the President being the custodian of the cash in the claim statement and the rejoinder filed before this Court. Shri Antony did not try to fix the liability on the President in his evidence as WW1. It was also not suggested to MW2 the then President when he was in the box that he was the actual custodian. We have to remember that the bye-laws do not insist that invariably the President should be the custodian of cash as the ex-officio Treasurer. It only mentions that whenever it is convenient the President should act as the Treasurer as well. In this case there is no indication in evidence to say that the President was actually acting as the ex-officio Treasurer as well. All along Shri Antony was proceeding on the assumption that he was the custodian of the cash and that he had given loans to the Board Members as directed by the President and that such loans were not accounted and further that Rs. 2,000 spent off the record could not be accounted. He clarifies the position in evidence by saying that Rs. 2,000 was utilised for bribing Engineers and other Officers of the Department to secure sanction and that the expenditure was kept in suspense to be adjusted somehow or other at a later stage. It is for him to prove the truth of such allegations. But for the present it is sufficient to say that the argument that Shri Antony was not the custodian of the cash and the President in his capacity as the ex-officio Treasurer was actually the custodian cannot be accepted as a valid defence.

12. It is the admitted case that there was deficiency in cash as noted in Ext. M8 (a) which is specifically marked as Ext. M8 (a) 1. Shri Antony is also a signatory to that endorsement. All along Shri Antony has admitted the deficiency. His explanation is that the cash balance as per the books will not be available for the reason that there were unaccounted expenditures. The items specifically stated by him are Rs. 2,000 said to have been spent by way of bribe in connection with the sanction for the godown and Rs. 2,000 advanced to the Board Members. There was also an excess credit by way of an arithmetical error on 2-8-1971 as is pointed out in Ext. M12 audit report for the relevant period. These figures added together amounts only to Rs. 5,000. Still there is a balance of more than Rs. 3,000 for which any explanation is wanting. The learned counsel appearing on behalf of Shri Antony vehemently argued before me that the audit report itself shows that there was no proper accounting and that if a proper scrutiny of the accounts is made it will be easy to find out that there are other discrepancies also and a possible explanation for this amount can also be found out. But Shri Antony has no such case when examined before me.

He had admitted in so many words that there are no discrepancies in the accounts other than those that are pointed out by the Auditor in Ext. M12. Much reliance is placed by the learned counsel on Ext. W2, an internal audit report for the relevant period. That was a report showing the result of an internal audit jointly conducted by two persons of whom one is examined as WW2. In para 3 of Ext. W2 there is a reference to a special report said to have been filed by these Auditors. That is not seen produced before this Court. The Auditors have stated that various irregularities noticed by them are not mentioned considering the best interest of the Society. The special report, according to the learned counsel, had been suppressed with ulterior motive. There is nothing more in the evidence of WW2 than what could be seen from Ext. W2. Nothing advantageous to Shri Antony's case is there in the testimony of WW2 or Ext. W2. WW2 has stated clearly that Antony's contention that money had been advanced by him without accounting was not accepted by the President. So the production of Ext. W2 and the examination of WW2 have not improved the defence of Shri Antony in any way.

13. Much reliance is placed on the observations contained in Ext. W1 judgement and Ext. W10 award by the learned counsel appearing on behalf of Shri Antony in support of the argument that Shri Antony cannot be held liable for misappropriation. The Special Judge and the Arbitrator have observed in the judgement and the award that the President who had initialled the accounts in token of having verified the same had drawn money from the Bank along with Shri Antony when huge cash balance was available to meet the expenses and that is an indication to infer that actually there was no cash available to the knowledge of the President also and therefore the cash balance shown in the accounts was not really available to the knowledge of the President and the Board Members who have passed the accounts from time to time. The President and the Board Members naturally should have enquired as to how such huge cash balance remained as per the books. They should also have taken timely action against Shri Antony for not depositing the cash balance exceeding the maximum limit permissible in the Bank. This circumstance was relied on by the Special Judge to say that it is not safe to hold that Shri Antony had committed misappropriation. Yet the learned Judge had observed in Ext. W1 that Shri Antony has the civil liability to account for the money. He was acquitted stating that the circumstances do not warrant for a conclusion that he was criminally liable for misappropriation requiring a punishment at the hands of a Criminal Court. The Arbitrator also while pointing out the strange manner in which the President and the Director Board had handled the matter had fixed the liability on Shri Antony in the award Ext. W10. The amount was also paid by Shri Antony's surety who is none other than his father and the voucher for that payment is Ext. M11. Shri Antony had filed an appeal from Ext. M10 award. It is admitted that the appeal had been dismissed by the Co-operative Tribunal. The contention that the deficiency occurred on account of expenditure incurred for the Society and by way of loans to the Director Board

Members did not find favour with the Arbitrator. There is no material in evidence before me to come to a different conclusion. It is true that there was a resolution in Ext. M9 minutes at page 94 separately marked as Ext. M9 (d) wherein Shri Antony was authorised to incur necessary expenditure to obtain sanction for a revised estimate for the construction of a godown. The President as MW2 had also admitted that he had gone to Trivandrum at the expense of the Society in connection with the godown affair. Apart from this there is nothing to show that Rs. 2,000 was incurred to bribe the concerned Officers and it is also important to notice that Shri Antony does not have a consistent case regarding the amount involved for the bribe. He states in some connection that it was Rs. 2,000. But the defence in Ext. W10 case is that it was Rs. 1,800. Ext. D9 (d) resolution cannot be taken to mean that Shri Antony was authorised to bribe the Officers. He was only authorised to incur necessary expenditure which term cannot include bribe to officers. Even if such an item of expenditure was occurred it was possible to book the expenditure in the accounts even, without disclosing that it was a bribe by saying that that much amount had been spent as per Ext. D9 (d) authorisation. Suffice it to say that the explanation furnished by Shri Antony is not satisfactory except to the extent of Rs. 1,000 which is a duplicate receipt inflating the balance to that extent. As already mentioned there is no explanation whatsoever regarding more than Rs, 3,000 and that alone is sufficient to say that Shri Antony had not explained the deficiency in the amount of the cash balance. At any rate he should have misappropriated the balance sum of Rs. 3,000 even assuming that Rs. 2,000 had been advanced to the Members of the Director Board and another Rs. 2,000 spent as bribe. So for our purpose it can safely be concluded that Shri Antony had committed misappropriation of the funds of the Society. So I find that Shri Antony is guilty of a misconduct of misappropriation of the funds of the Society.

14. Now remains the question as to what relief if any the workman is entitled to. A Co-operative Society can normally function and flourish if only it is manned by honest and efficient employees. Shri Antony was holding the position of the Chief Executive of the Society in his capacity as the Secretary. The Director Board and the President elected by it may change from time to time and even if it is assumed that the discrepancies occurred on account of the mis-management of the President and the Director Board it is not an excuse for the Secretary to plead innocence. A paid employee of the Society is not bound to obey illegal orders and directions of the elected representatives. He must be bold enough to point out the irregularities, if any, in the directions of the Board and the President. He cannot take shelter in situations like this by saying that he is innocent and the President and the Members of the Board are responsible for the mischief. If the actually is innocent then he is inefficient. So in any event he cannot be reinstated as the Secretary of the Society.

15. Yet another argument advanced on behalf of Shri Antony is that he was dismissed without holding an enquiry and therefore his dismissal cannot take effect from the date on which he was dismissed and the crucial date can only be the date of this award as has been held by our Hon'ble High Court in *Govindan Unnithan* V. *Industrial Tribunal* (1981 K.L.T. 342). But the facts of that case cannot apply to the one in hand. Here the employer framed a charge and served on the workman. He was given a chance to explain his position. When the explanation was found unsatisfactory he was asked to participate in an enquiry that was proposed to be held by the Director Board. He wrote back to say that he is not prepared to take part in the enquiry as he does not expect justice especially in the circumstance that he was challenging the validity of the action against him under other forums. So this is not a case where the Management did not offer an opportunity to the workman to attempt to prove his innocence. On the other hand it was a case of the workman refusing to avail of the opportunity given to him. In such circumstances the Management was not in a position to do anything more. It cannot, therefore, be said that principles of natural justice were flouted by the Management and an arbitrary decision made to dismiss him. There was admitted deficiency in cash for which I have already held that Shri Antony was responsible. Shri Antony also had no case at those stages that he was not responsible for the deficiency. When viewed in this background this cannot be treated as a case where the Management did not give an opportunity to the workman to defend himself. He is found guilty and therefore the dismissal can take effect in the peculiar circumstances on the date on which it was effected by the Management. So there is no question of paying him any back wages from the date of dismissal till this date. In other words Shri Antony is not entitled to any reliefs.

16. In the result an award is passed upholding the dismissal of Shri P. V. Antony and finding that he is not entitled to any reliefs.

Ernakulam,
3-8-1982.

N. SUKUMARAN,
Presiding Officer.

Appendix

Witnesses examined on the Managements side:

MW1. Shri K. N. Manoharan.
MW2. ,, T. K. Raghavan.

Witnesses examined on the Workman's side:

WW1. Shri P. V. Antony.
WW2. ,, Vajrakshan.

Exhibits marked on the Management's side:

Ext. M1. Copy of a memo dated 3-12-1971 issued to Shri P.V. Antony
,, M2. Copy of a petition dated 3-12-1971 from Shri Antony to the President of the Society.

Ext. M3. Copy of a letter dated 16-12-1971 from Shri Antony to the President of the Society.

,, M4. Copy of a communication dated 25-12-1971 from the President of the Society to Shri Antony containing certain charges.

,, M5. Copy of the explanation of Shri Antony dated 7-1-1972.

,, M6. Copy of a communication dated 2-12-1971 from Shri Antony regarding keys of the Society.

,, M7. Copy of a statement dated 2-12-1971 of Shri P.G. Mukundan

,, M8. Cash book of the Society from 31-10-1970.

,, M8(a). do. 1-12-1971.

,, M8(a)1. Page 2 of Ext. M8 (a).

,, M9. Minutes book of the Society from June 1970.

,, M9(a). Page 62 of Ext. M9.

,, M9(b). Page 97 of Ext. M9.

,, M9(c). Page 105 of Ext. M9.

,, M9(d). Pages 93 and 94 of Ext. M9.

,, M10. Certified copy of the award of the Arbitrator in Arbitration case No. 1/72.

,, M11. Receipt No. 72/4 dated 4-1-1975 of the Society given to Sale Officer, Ernakulam District Co-operative Bank Ltd., Ernakulam Branch.

,, M12. Copy of the audit report of the Society for the year 1971-72

,, M13. Bye-laws of the Society.

,, M14. Copy of the dismissal order dated 15-1-1972 issued to Shri Antony.

,, M15. Minutes book of the Society from 19-12-1972.

,, M15(a). Page 25 of Ext. M15.

Exhibits marked on the Workman's side :

Ext. W1. Certified copy of the judgement of the Special Judge, Trichur in Criminal Case No. 14/1977.

,, W2. Audit report of the Society for the year 1970-71 and 1971-72 submitted by M/s. C.K. Narayanan and M.R. Vajrakshan on 16-9-1972.

GOVERNMENT OF KERALA

Law (Legislation—Publication) Department

NOTIFICATION

No. 15480/Leg.Pbn. 2/82/Law. *Dated, Trivandrum, 14th October,* 1982.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II, Section 1, dated the 19th May, 1982, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 18th May, 1982.

By order of the Governor,
K. VISWANATHAN NAIR,
Special Secretary (Law).

THE ARCHITECTS (AMENDMENT) ACT, 1982
(Central Act No. 21 OF 1982)

An

Act

to amend the Architects Act, 1972.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Architects (Amendment) Act, 1982.

2. *Amendment of section* 45.—In section 45 of the Architects Act, 1982 (20 of 1972),—

(i) in subsection (1), after the words "the Central Government,", the words "by notification in the Official Gazette," shall be inserted;

(ii) after subsection (2), the following subsection shall be inserted, namely:—

"(3) Every regulation made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

GOVERNMENT OF KERALA

Law (Legislation–Publication) Department

NOTIFICATION

No 15299/Leg. Pbn. 2/82/Law. *Dated, Trivandrum, 14th October* 1982.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II—Section 1, dated the 6th August, 1982, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 5th August, 1982.

By order of the Governor,
K. VISWANATHAN NAIR,
Special Secretary (Law).

THE PREVENTION OF BLACKMARKETING AND MAINTENANCE OF SUPPLIES OF ESSENTIAL COMMODITIES (AMENDMENT) ACT, 1982 (C. A. No. 27/82)

An

Act

further to amend the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities (Amendment) Act, 1982.

2. *Amendment of section 7.*—In section 7 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (7 of 1980), in sub-section (1),—

(a) for the words "appropriate Government", the words, brackets and figures "the appropriate Government or an officer mentioned in sub-section (2) of section 3, as the case may be," shall be substituted;

(b) after the words "that Government", the words "or officer" shall be inserted.

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport C) Department

NOTIFICATION

No. 14656/TC2/82/TF&P. *Dated, Trivandrum, 14th October* 1982.

S.R.O. No. 1397/82.—Whereas representations have been received by Government from the Stage Carriage Operator specified in the annexure to this notification, that the vehicle tax for the quarter ended on the 31st March, 1982 and 30th June, 1982 in respect of the Stage Carriages particulars of which are specified in the said annexure could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of these vehicles may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operators of the said stage carriages could not remit the vehicle tax in respect of the said stage carriages ordinarily kept for use in the State for the quarter ended on the 31st March, 1982 and 30th June, 1982 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriages due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarter ended on the 31st March, 1982 and 30th June 1982 in respect of the said stage carriages;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 31st March, 1982 and 30th June, 1982 in respect of the said stage carriages ordinarily kept for use in the State shall be paid on or before the 30th July, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 33942/TC2/ 75-5/PW. dated the 29th September, 1975 published as S.R.O.No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

ANNEXURE

Sl. No.	Name of Stage Carriage Operators	Registration Number of the Stage Carriages
1	Smt. C. Bhanumathi Amma, West Pulapayil House.	KEE. 4150
2	Sri Gopinatha Menon, Sree Vilasam, Kumbalam, Cochin.	KLF. 9529

By order of the Governor,

T. SANKARAN,

Additional Secretary to Government

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification.)

Government have received certain representations from the Stage Carriage Operators as shown in the annexure requesting extension of time for payment of vehicle tax for the quarter ended 31st March, 1982 and 30th June, 1982 due to financial strain;

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

Kerala Gazette No 46 dated 23rd November 1982.
PART I **Section iv**

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport C) Department

NOTIFICATION

No. 17054/TC2/82/TF & P. *Dated, Trivandrum,* 20*th October* 1982

S. R. O. No. 1398/82.—Whereas representation has been received by Government from the Stage Carriage Operators specified in the annexure to this notification, that the vehicle tax for the quarter ended on the 30th June, 1982 in respect of the Stage Carriages particulars of which are specified in the said annexure could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of these vehicles may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed, that the operators of the said stage carriages could not remit the vehicle tax in respect of the said stage carriages ordinarily kept for use in the State for the quarter ended on the 30th June, 1982 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriages due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarter ended on the 30th June, 1982 in respect of the said stage carriages;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 30th June, 1982 in respect of the said stage carriages ordinarily kept for use in the State shall be paid on or before the 31st August, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 33942/TC2/75-5/PW. dated the 29th September, 1975 published as S.R.O. No. 876/75 in the Kerala Gazette Extraordinary No.572 dated 29th September, 1975.

G. 1517

ANNEXURE

Sl. No.	Name of Stage Carriage Operator	Registration No. of the Stage Carriage
1.	Shri K. K. Bharathan, Vimalalayam, P.O. Mundallur, (via) Kadachira.	KLC. 4717
2.	Shri K. Kuchiraman, Swarna Transport, Cannanore.	KLC. 8278 KLC. 4130
3.	Shri M. George Abraham, Maliyekkal Malayil, Puramuttam, Thiruvalla.	KLO. 5540
4.	Shri T.P. Navaneetha Krishnan, Baha Nivas, Cannanore.	KLN. 410 KLD. 7172 KLC 5016
5.	Shri M. M. Philip, Mekkatu Veedu, Haripadu.	KLA. 1982
6.	Shri K. Sivadasan, Rajendra Bhavan, Punnathala, Quilon.	KLQ. 4462

By order of the Governor,

T. SANKARAN

Additional Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification).

Government have received certain representations from the Stage Carriage Operators as shown in the annexure requesting extension of time for payment of vehicle tax for the quarter ended 30th June, 1982 due to financial strain;

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

Kerala Gazette No. 46 dated 23rd November 1982.
PART I **Section iv**

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport-B) Department

NOTIFICATION

G. O. Rt. No. 813/82/TF&P. *Dated, Trivandrum, 28th September* 1982.

S.R O.No. 1399/82.—Whereas Shri T. K. Pal, Manager, Air- India Mascot Hotel, Trivandrum, has purchased a new standard 20 Diesel Micro Mini Bus the details of which are hereunder given, solely for the purpose of conveying of the staff of Air-India free of charge;

And whereas, the ove hang of the sa d vehicle exceeds the limits prescribed under sub rule (2) of rule 268 of the Kerala Motor Vehicles Rules, 1961;

And whereas, the Government of Kerala are satisfied that the said vehicle can conveniently for used as an omni bus with such excess measurement in overhang;

Now, therefore, in exercise of the powers conferred by rule 368 of the Kerala Motor Vehicles Rules, 1961 the Government of Kerala hereby exempt the said vehicle from the provisions of sub-rule (2) of rule 268 of the said Rules.

DETAILS OF THE VEHICLE

Model—Standard 20 I iesel Micro bus
Engine Number—S. M.-00007
Chassis Number—2385-M
Overall length—4431 Milleemetres
Overall width—1855 Milleemetres
Overall height—2186 Milleemetres
Wheel base—2540 Milleemetres.

By order of the Governor,
T. SANKARAN,
Additional Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate its main purport.)

Shri T. K. Pal, Manager, Air-India, Mascot Hotel, Trivandrum has requested Government to exempt the vehicle mentioned in the above notification from the provisi n of sub-rule (2) of Rule 268 of the Kerala Motor Vehicle Rules, 1961, Since the overhang of this vehicle exceeds the limits prescribed under the rule. The vehicle is intended to be used for conveying of the staff of Air-I dia free of charge. Government have considered the request in consultation with the Transport Commissioner and decided to grant the exemption sought for. Hence, this Notification.

G. 1364

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport-B) Department

NOTIFICATION

G. O. Rt. No. 820/82/TF & P. *Dated, Trivandrum, 1st October* 1982

S. R. O. No. 1400/82. — Whereas, Shri G. Kuppuswamy, Sri Ganaphathy Tourist, Trivandrum has completed the construction of a bus body on an Ashok Leyland 210 "Wheel base Chassis, the details of which are hereunder given and registered it in the State of Tamil Nadu.

And whereas, he intends to register the said vehicle in State of Kerala for the purpose of plying it as a contract carriage.

And whereas, the overall length and overhang of the said vehicle exceed the limits prescribed under sub-rule (2) of rule 267 and rule 294 respectively of the Kerala Motor Vehicles Rules, 1961.

And whereas, the Government of Kerala are satisfied that the said vehicle can conveniently be used as a contract carriage with such excess measurements in overall length and overhang.

Now, therefore, in exercise of the powers conferred by rule 368 of the Kerala Motor Vehicles Rules, 1961, the Government of Kerala hereby exempt the said vehicle from the provisions of sub-rule (2) of rule 267 and rule 294 of the said rules.

Details of the Vehicle

Makers Name	..	Ashok Leyland
Engine No.	..	ALI 125419
Chassis No.	..	ALE 141355
Overall length	..	973 Centimetres
Overhang	..	60% of the wheel base
Wheel base	..	533.4 centimetres
Tamil Nadu Registration No.	..	TNI 3959

By order of the Governor,

T. Sankaran,

Additional Secretary to Government.

[P.T.O.]

G. 1365

Explanatory Note

(This is not part of the notification, but is intended to indicate its general purport).

Shri G. Kuppuswamy, Shri Ganaphathy Tourist, Trivandrum has requested Government to exempt the vehicle mentioned in the above notification from the provision of sub-rule (2) of rule 267 and rule 294 of the Kerala Motor Vehicles Rules, 1961, as the overall length and overhang of the vehicle exceed the prescribed limits under these rules, so as to enable him to register the vehicle in Trivandrum also, as a contract carriage. Government have considered the request in consultation with the Transport Commissioner and have decided to grant the exemption sought for. Hence this notification.

GOVERNMENT OF KERALA

Revenue (B) Department

NOTIFICATION

No. 19599/B1/82/RD. *Dated, Trivandrum, 27th October* 1982.

S. R. O. No. 1401/82.—Under subsection (1) of section 52 of the Kerala Land Acquisition Act, 1961 (21 of 1962), the Government of Kerala hereby withdraw from acquisition of the land mentioned in the schedule hereto annexed in respect of which notification No. B4-1335/81 dated the 4th April, 1981 under subsection (1) of section 3 of the said Act has been published at page 852 of Part III of the Kerala Gazette dated the 26th May, 1981.

SCHEDULE

District—Kozhikode *Taluk*—Badagara

Village—Kunnummal *Desom*—Kunnummal

Resurvey Number—71/1D1.

Description—Garden

Extent—0.0405 Hectare

Explanatory Note

(This does not form part of the Notification but is intended to indicate its general purport.)

An extent of 0-0405 Hectare of land mentioned in the schedule above was notified for the acquisition for the construction of Village Office, Building, Kunnummal. Subsequently the District Collector, Kozhikode has ordered to drop the acquisition proceedings already initiated and to start the acquisition of alternate land proposed for this purpose. Hence the notification. No damages have been incurred by the interested parties. Hence no amount has to be paid on that account under Section 52 (2) of the Act

എസ്. ആർ. ഒ. നമ്പർ 1401/82.—1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് (1962-ലെ 21) 52-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പുപ്രകാരം കേരള സർക്കാർ ഇതോടൊന്നിച്ച് ചേർത്ത പട്ടികയിൽ പറഞ്ഞിട്ടുള്ളതും 1981 മേയ് 26-ാം തീയതിയിലെ കേരളാ ഗസററിൽ 3-ാം ഭാഗത്ത് 852-ാം പേജിൽ പ്രസിദ്ധപ്പെടുത്തിയ പ്രസ്തുത ആക്റ്റിലെ 3-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പ് പ്രകാരമുള്ള

1981 ഏപ്രിൽ 4-ാം തീയതിയിലെ ബി 4-1335/81 എന്ന നമ്പർ വിജ്ഞാപനം പുറപ്പെടുവിച്ചുകൊണ്ടും സ്ഥലമെടുപ്പ് നടപടികൾ ആരംഭിച്ചിട്ടുള്ളതുമായ സ്ഥലം വിലയ്ക്കെടുക്കുന്നതിൽ നിന്നും ഇതിനാൽ പിൻവാങ്ങുന്നു.

പട്ടിക

ജില്ല—കോഴിക്കോട്.
വില്ലേജ്—കുന്നുമ്മൽ.

താലൂക്ക്—വടകര.
ദേശം—കുന്നുമ്മൽ

റീ സർവ്വേ നമ്പർ—71/1 ഡി 1
വിവരണം—പുരയിടം
വിസ്തീർണ്ണം—0.0405 ഹെക്ടർ

വിശദീകരണക്കുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമല്ല. എന്നാൽ അതിന്റെ പൊതു ഉദ്ദേശം വെളിപ്പെടുത്തുവാൻ ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)

കുന്നുമ്മൽ വില്ലേജാഫീസ് കെട്ടിടം നിർമ്മിക്കുന്നതിനുവേണ്ടി മുകളിൽ പട്ടികയിൽ സൂചിപ്പിച്ച 0.0405 ഹെക്ടർ വിസ്തീർണ്ണമുള്ള ഭൂമി വിലയ്ക്കെടുക്കുന്നതിനുവേണ്ടി പരസ്യപ്പെടുത്തിയിരുന്നു. നേരത്തെ ആരംഭിച്ച സ്ഥലമെടുപ്പ് നടപടികൾ നിറുത്തിവയ്ക്കുവാനും ഈ ആവശ്യത്തിലേക്ക് പകരം ഭൂമി വിലയ്ക്കെടുക്കുവാൻ ആരംഭിക്കുവാനും പിന്നീട് കോഴിക്കോട് ജില്ലാ കളക്ടർ ഉത്തരവ് പുറപ്പെടുവിച്ചു. അതിനാലാണ് ഈ വിജ്ഞാപനം. തൽപ്പര കക്ഷികൾക്ക് യാതൊരു നഷ്ടവും സംഭവിച്ചില്ല. അതിനാൽ ആക്റ്റിലെ 52 (2) വകുപ്പിൻകീഴിൽ ആ കാര്യത്തിന് യാതൊരു തുകയും കൊടുക്കേണ്ടതില്ല.

By order of the Governor,
K. NARAYANAN,
Deputy Secretary to Government.

GOVERNMENT OF KERALA

Revenue (B) Department

NOTIFICATION

No. 39203/B1/82/RD. *Dated, Trivandrum, 8th October* 1982.

S. R. O. No. 1402/82.—Under subsection (1) of section 52 of the Kerala Land Acquisition Act, 1961 (21 of 1962), the Government of Kerala hereby withdraw from acquisition of the lands mentioned in the Schedule hereto annexed in respect of which notification No. HSR (LA) 8/76 dated the 26th November, 1976 under subsection (1) of section 3 of the said Act has been published at page 3794 of Part III of the Kerala Gazette dated the 14th December, 1976 and declaration No. K.Dis. 38325/78/LRC3 dated the 11th September, 1978 under section 6 of the said Act has been published at page 3009 of the Kerala Gazette dated the 24th October 1978.

Schedule

District—Alleppey

Taluk—Mavelikara *Village*—Peringala

Sl. No.	*Survey No.*	*Description*	*Extent*
1.	241/20-4	Purayidom	02.43 ares
2.	241/19-A3	,,	01.62 ,,
		Total	04.05 ares

Explanatory Note

(This is not part of the notification but is intended to indicate its general purport.)

The lands were proposed for acquisition for shifting the Kudikidappu. Subsequently the applicant and the Kudikidappukari came to a compromise and the kudikidappu was shifted to a new site and hence this withdrawal notification. No compensation is payable under section 52 (2) of the Kerala Land Acquisition Act as no damage has been caused to the interested parties by the L.A. proceedings.

എസ്. ആർ. ഒ. നമ്പർ 1402/82.—1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്ട് (1962-ലെ 21) 52-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പു പ്രകാരം കേരള സർക്കാർ, ഇതോടൊന്നിച്ച് ചേർത്തിട്ടുള്ള പട്ടികയിൽ പറഞ്ഞിട്ടുള്ളതും പ്രസ്തുത

ആക്റ്റ് 3-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പു പ്രകാരം 1976 ഡിസംബർ 14-ാം തീയതിയിലെ കേരള ഗസറ്റ് 3-ാം ഭാഗം 3794-ാം പേജിൽ 1976 നവംബർ 26-ാം തീയതിയിലെ എച്ച്. എസ്. ആർ. (എൽ. എ.) 8/76 എന്ന നമ്പർ വിജ്ഞാപനം പ്രസിദ്ധപ്പെടുത്തിയിട്ടുള്ളതും പ്രസ്തുത ആക്റ്റ് 6-ാം വകുപ്പു പ്രകാരം 1978 സെപ്റ്റംബർ 24-ാം തീയതിയിലെ കേരള ഗസറ്റ് 3009-ാം പേജിൽ 1978 സെപ്റ്റംബർ 11-ാം തീയതിയിലെ കെ. ഡിസ്. 38325/78/എൽ. ആർ. സി. എന്ന നമ്പർ പ്രഖ്യാപനം പ്രസിദ്ധീകരിച്ചിട്ടുള്ളതുമായ ഭൂമിയെ സംബന്ധിച്ച സ്ഥലമെടുപ്പ് നടപടികളിൽ നിന്നും ഇതിനാൽ പിൻവാങ്ങുന്നു.

പട്ടിക

ജില്ല—ആലപ്പുഴ.

താലൂക്ക്—മാവേലിക്കര. വില്ലേജ്—പെരിങ്ങാല.

ക്രമ നമ്പർ	സർവ്വേ നമ്പർ	വിവരണം	വിസ്തീർണ്ണം ആർ
1	241/20-4	പുരയിടം	02.43
2	241/19-എ3	,,	01.62
		ആകെ	04.05

വിശദീകരണക്കുറിപ്പ്

(ഇതു വിജ്ഞാപനത്തിന്റെ ഭാഗമല്ല, എന്നാൽ അതിന്റെ പൊതു ഉദ്ദേശം വെളിപ്പെടുത്തുവാൻ ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)

കുടികിടപ്പ് മാററുന്നതിനു വേണ്ടിയാണ് ഭൂമി വിലയ്ക്കെടുക്കുവാൻ നിർദ്ദേശിച്ചിരുന്നത്. പിന്നീട് അപേക്ഷകനും കുടികിടപ്പുകാരിയും ഒത്തുതീർപ്പിൽ എത്തുകയും കുടികിടപ്പ് ഒരു പുതിയ സ്ഥലത്തേയ്ക്ക് മാററുകയും ചെയ്യുകയുണ്ടായി. അതിനാലാണ് ഈ പിൻവാങ്ങൽ പരസ്യം. സ്ഥലമെടുപ്പ് നടപടികൾ കൊണ്ട് ബന്ധപ്പെട്ട കക്ഷികൾക്ക് യാതൊരു നഷ്ടവും സംഭവിച്ചിട്ടില്ലാത്തതിനാൽ, കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് 52 (2) എന്ന വകുപ്പു പ്രകാരം യാതൊരു നഷ്ടപരിഹാരവും നൽകേണ്ടതില്ല.

By order of the Governor,

K. NARAYANAN,

Deputy Secretary to Government.

GOVERNMENT OF KERALA

Revenue (B) Department

NOTIFICATION

No. 27079/B1/82/RD. *Dated, Trivandrum, 8th October* 1982.

S.R.O. No. 1403/82.—Under subsection (1) of section 52 of the Kerala Land Acquisition Act, 1961 (21 of 1962), the Government of Kerala hereby withdraw from acquisition of the land mentioned in the schedule hereto annexed in respect of which Notification No. B4-1864/80 (1) dated the 21st May, 1980 under sub-section (1) of section 3 of the said Act has been published at page 13 of Part III of the Kerala Gazette dated the 21st October, 1980.

SCHEDULE

District—Kozhikode *Taluk*—Badagara
Village—Chorode *Desom*—Muttungal

Sy. No.—61/5B
Description—Wet
Extent—0.0405 hectare

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport).

An extent of 0.0405 Hectare of land mentioned in the Schedule above was notified for the acquisition of land for the construction of Village Office building Chorode. Subsequently, it was decided to drop the acquisition proceedings already initiated and to start the acquisition of alternate land proposed for this purpose. Hence the notification. No damages have been incurred by the interested parties or any amount to be paid on that account under Sec. 52 (2) of the Act.

എസ്. ആർ. ഒ. നമ്പർ 1403/82.— 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് (1962-ലെ 21) 52-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പു പ്രകാരം കേരള സർക്കാർ ഇതോടൊന്നിച്ചു ചേർത്തിട്ടുള്ള പട്ടികയിൽ പറഞ്ഞിട്ടുള്ളതും 1980 ഒക്ടോബർ 21-ാം തീയതിയിലെ കേരള ഗസററിന്റെ മൂന്നാം ഭാഗത്ത്

13-ാം പേജിൽ പ്രസിദ്ധപ്പെടുത്തിയതുമായ പ്രസ്തുത ആക്ററ് 3-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പു പ്രകാരമുള്ള 1980 മേയ് 21-ാം തീയതിയിലെ ബി4-1864/80 (1) എന്ന നമ്പർ വിജ്ഞാപനം പുറപ്പെടുവിച്ചുകൊണ്ട് സ്ഥലമെടുപ്പ് നടപടികൾ ആരംഭിച്ചിട്ടുള്ളതുമായ സ്ഥലം വിലയ്ക്കെടുക്കുന്നതിൽ നിന്നും ഇതിനാൽ പിൻവാങ്ങുന്നു.

പട്ടിക

ജില്ല—കോഴിക്കോട്. താലൂക്ക്—വടകര.
വില്ലേജ്—ചോറോട്. ദേശം—മുട്ടുങ്കൽ.

സർവ്വെ നമ്പർ—61/5 ബി
വിവരണം—നിലം
വിസ്തീർണ്ണം—0.0405 ഹെക്ടർ

വിശദീകരണക്കുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമല്ല. എന്നാൽ പൊതു ഉദ്ദേശം വെളിപ്പെടുത്തുന്നതിന് ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)

ചോറോട് വില്ലേജാഫീസ് കെട്ടിടം നിർമ്മിക്കുന്നതിനുവേണ്ടി സ്ഥലം എടുക്കുന്നതിലേക്കായി മേൽപറഞ്ഞ പട്ടികയിൽ സൂചിപ്പിച്ചിട്ടുള്ള 0.0405 ഹെക്ടർ വിസ്തീർണ്ണമുള്ള ഭൂമി പരസ്യപ്പെടുത്തിയിരുന്നു. ഈ ആവശ്യത്തിനായി ഭൂമി വിലയ്ക്കെടുക്കുന്നതിനു തുടങ്ങിവച്ചിട്ടുള്ള നടപടി നിറുത്തലാക്കാനും ഉന്നയിച്ചിട്ടുള്ള മറെറാരു സ്ഥലം വിലയ്ക്കെടുക്കുന്നതിനുള്ള നടപടി ആരംഭിക്കുന്നതിനും തീരുമാനിച്ചു. അതിനു വേണ്ടിയുള്ളതാണ് ഈ വിജ്ഞാപനം. തൽപ്പര കക്ഷികൾക്ക് യാതൊരു നഷ്ടവും സംഭവിച്ചിട്ടില്ല. അതിനാൽ ആക്ററിലെ 52-ാം വകുപ്പു പ്രകാരം യാതൊരു തുകയും കൊടുക്കേണ്ടതായിട്ടില്ല.

By order of the Governor,
K. Narayanan,
Deputy Secretary to Government.

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport G) Department

NOTIFICATION

No. 13'72/TC2/82/TF&P. *Dated, Trivandrum, 12th October* 1982.

S. R. O. No. 1404/82.—Whereas representation has been received by Government from the Stage Carriage Operator Smt. P. E. Nafeesa, Koleadath House, S. R. M Road, Cochin-17 that the vehicle tax for the quarter ended on the 31st December, 1981, 31st March, 1982 and 30th June, 1982 in respect of the stage carriage hearing Registration Number KRE. 7819 could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in. respect of this vehicle may, therefore, be granted ;

And whereas, the Government are convinced that circumstances existed that the operator of the said stage carriage could not remit the vehicle tax in respect of the said stage carriage ordinarily kept for use in the State for the quarter ended on the 31st December, 1981, 31st March, 1982 and 30th June, 1982 due to financial strain ;

And whereas, the Government are convinced that non-operation of the said stage carriages due to non-payment of tax would have caused great inconvenience to the travelling publio ;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarter ended on the 31st December, 1981, 31st March, 1982 and 30th June, 1982 in respect of the said stage carriage ;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarters ended on the 31st December, 1981, 31st March, 1982, and 30th June, 1982 in respect of the said stage carriages ordinarily kept for use in the State shall be paid on or before the 9th July, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 33942/T C2/75-5/PW. dated the 29th September, 1975 published as S. R. O No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975 and that no further extension of time for payment of the said tax will be granted.

By order of the Governor,
T. SANKARAN,
Additional Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification.)

Government have received representation from the Stage Carriage Operator as shown in the notification requesting extension of time for payment of vehicle tax for the quarters ended 31st December, 1981, 31st March, 1982, and 30th June, 1982 due to financial strain.

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

Kerala Gazette No. 46 dated 23rd November 1982.
PART I

Section Iv

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport-C) Department

NOTIFICATION

No. 18847/TC2/82/TF&P. *Dated, Trivandrum, 20th October,* 1982.

S. R. O. No. 1405/82.—Whereas representation has been received by Government from the Stage Carriage Operator Smt. P. Lakshmi Pillai Amma, Thoppil Veedu, Chavara, Quilon that the vehicle tax for the quarter ended on the 30th June, 1982 in respect of the Stage Carriage bearing Registration Numbers KLA 2122 and KLU. 1729 could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of this vehicle may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operator of the said stage carriage could not remit the vehicle tax in respect of the said stage carriage ordinarily kept for use in the State for the quarter ended on the 30th June, 1982 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriage due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarter ended on the 30th June, 1982 in respect of the said stage carriage;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 30th June, 1982 in respect of the said stage carriage ordinarily kept for use in the State shall be paid on or before the 30th September, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 23942/TC2/75-5/PW. dated the 29th September, 1975 published as S.R.O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

By order of the Governor,

T. Sankaran,

Additional Secretary to Government.

[P. T. O.]

G. 1519

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification).

Government have received representation from the Stage Carriage Operator as shown in the notification requesting extension of time for payment of vehicle tax for the quarter ended 30th June, 1982 due to financial strain;

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise the vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

Kerala Gazette No 46 dated 23rd November 198[illegible]
PART I Section iv



GOVERNMENT OF KERALA

General Administration (Rules) Department

NOTIFICATION

G.O. (P) No. 347/82/GAD. *Dated, Trivandrum, 30th October,* 1982.

S.R.O. No. 1406/82.—In exercise of the powers conferred by the proviso to clause (5) of article 320 of the Constitution of India, the Governor of Kerala hereby makes the following regulations further to amend the Kerala Public Service Commission (Consultation) Regulations 1957, namely:—

REGULATIONS

1. *Short title and commencement.*—(a) These Regulations may be called the Kerala Public Service Commission (Consultation) Amendment Regulations, 1982.

(b) They shall come into force at once.

2. *Amendment to the Regulations.*—In the Annexure to the Kerala Public Service Commission (Consultation) Regulations, 1957, under the heading "Subordinate Services" after sub-item (iv) of item 8, the following shall be inserted, namely:—

"(v) Technical and Civil Posts in the Police Department specified below :—

(a) *Technical posts*:

(1) Police Constable Driver.
(2) Police Constable Mounted Police.
(3) Police Constable Operator (Tele-communication).
(4) Police Constable Lathe Operator.
(5) Police Constable Farrier (Mounted Police)
(6) Police Constable Welder.
(7) Police Constable Armourer.
(8) Police Constable Upholster.
(9) Police Constable Band & Orchestra.
(10) Police Constable Tailor.
(11) Police Constable Mason.
(12) Police Constable Electrician.

G. 1479.

(13) Police Constable Ratten Weaver.
(14) Police Constable Handler (Dogsquad),
(15) Police Constable Cinema Operator.
(16) Police Constable Mechanic (Motor Transport Unit).
(17) Police Constable Mechanic (Tele-communication).
(18) Head Constable Shorthand Writer—Grade II (in the Shorthand Bureau, Special Branch).
(19) Head Constable Mechanic (Tele-communications) Havildar Mechanic (Motor Transport).

(b) *Civil posts*:

(1) Blacksmith.
(2) Painter.
(3) Carpenter.
(4) Boat Lascar,
(5) Boat Syrang.
(6) Boat Driver.
(7) Mast Lascar.".

By order of the Governor,
M. MOHANKUMAR,
Special Secretary to Government.

Explanatory Note

(This note does not form part of the notification but is intended to indicate its general purport).

As per the orders in G.O. (Ms) No. 28/82/Home dated 25-2-1982 the post of Drivers and some other Technical and Civil posts in the Police Department stand excluded from the purview of the Kerala Public Service Commission. So as to make necessary provisions in this regard in the Kerala Public Service Commission (Consultation) Regulations, 1957 Government propose to amend the Regulations suitably. This notification is intended to achieve the above object.

To

All Heads of Departments and Offices.
All Departments of the Secretariat (all sections)
The Secretary, Kerala Public Service Commission, Trivandrum (with C.L.)
The Registrar, University of Kerala, Trivandrum ,,
The Registrar, University of Calicut, Calicut
The Registrar, University of Cochin, Cochin ,,
The Registrar, Kerala Agricultural University, Trichur
The Registrar, High Court of Kerala, Ernakulam
The General Manager, Kerala State Road Transport Corporation, Trivandrum

The Secretary, Kerala State Electricity Board,
Trivandrum (with C.L.)
All Special Secretaries, Secretaries, Additional Secretaries, Joint Secretaries, Deputy Secretaries and Under Secretaries to Government
The Secretary to Governor.
The Private Secretaries to the Chief Minister and other Ministers.
The General Admn. (Services-D) / (Services-B)/(S.C.) Departments.
The Deputy Secretary to the Chief Secretary.
All Recognised Service Associations.



GOVERNMENT OF KERALA

Agriculture (Forest Miscellaneous) Department

NOTIFICATION

No. G.O. (P) 310/82/AD. *Dated, Trivandrum,* 27*th October* 1982.

S.R.O. No. 1407/82.—Whereas the Government of Kerala considers that the area, the situation and limits of which are specified in the Schedule below, is of great ecological, faunal, floral, geomorphological and zoological importance;

And whereas it appears to the Government of Kerala that the said area is needed to be constituted as a National Park for the purpose of protecting the Wild Life, especially the Tiger (Panthera tigris tigris), therein and its environment;

Now, therefore, in exercise of the powers conferred by sub section (1) of section 35 of the Wild Life (Protection) Act, 1972 (Central Act 53 of 1972), the Government of Kerala hereby declare their intention to constitute the said area as a National Park, to be known as 'Periyar National Park'.

SCHEDULE

District—Idukki and Quilon

Taluk—Peermade, Pathanamthitta

Village—Mlappara

Name of Blocks—Nil

Area—350 Square Kilo Metre

North :—The boundary commence from the point nearest to Medaganam in the interstate boundary up to Vellimalai.

East :—Thence the boundary follows the interstate boundary from Vellimalai to Kallimalai Peak (5385')

South :—Thence the boundary follows along the main ridge to Chokkam-Pettimalai Peak (5923'), thence along the main ridge to Udumalai (5228') (the same boundary which divides Ranni Forest Division and existing Periyar Tiger Reserve).

G. 1482.

West :—Thence the boundary proceeds due north along the main ridge dividing Periyar Tiger Reserve and Ranni Forest Division to Manikamalai and thence along the ridge to Sundaramalai (5949′) from Sundaramalai boundary continues along the main ridge to Magamalai at top (5700′) and thence to Pachimala top (5922′). From Pachimalai top the boundary follows the Mallah which joins in its left bank, Mallah coming from Manaikavala then proceed along Chirakkotti river till it joins the Periyar lake between Pandaravara Malai and Ponpara. Thereafter Periyar Lake Pendage form the boundary upto Medaganam where from the boundary continues due north along the Medaganam Odai which takes almost 90° turn due west and then turn again due north along the same stream till inter state boundary to Madurai district above Devi Estate.

By order of the Governor,

M. DANDAPANY,

Agricultural Production Commissioner.

Explanatory Note

The necessity for declaring the core area of the Periyar Tiger Reserve as a National Park was highlighted by Government of India as recommended in the 14th meeting of the Indian Board for Wild Life held on February 9, 1981. For ensuring ecological progression with ultimate motive of maintaining the Biomass in a State of biological equilibrium, it is necessary to constitute this area into a National Park called 'Periyar National Park' with a well protected environment, which would need scientific management. In consideration of these aspects Government consider it absolutely necessary to declare the said area as a 'National Park under section 35 (1) of the Wild Life Protection Act, 1972, and this notification is intended to achieve the above object.

GOVERNMENT OF KERALA

Transport, Fisheries And Ports (Transport C) Department

NOTIFICATION

No. 14562/TG2/82/TF&P. *Dated, Trivandrum, 14th October* 1982.

S.R.O.No. 1408/82.—Whereas representation has been received by Government from the Stage Carriage Operator Shri O. Ahammad Koya Thulaparambil, Narikkal P. O. Ernakulam, that the vehicle tax for the quarter ended on the 31st March, 1981 in respect of the stage carriage bearing Registration Number KLD. 9766 could not be remitted within the prescribed period due to financial strain and that extension of time for payment of Vehicle tax in respect of this vehicle may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operator of the said stage carriage could not remit the vehicle tax in respect of the said stage carriage ordinarily kept for use in the State for the quarter ended on the 31st March, 1981 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriage due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarter ended on the 31st March, 1981 in respect of the said stage carriage;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 31st March, 1981 in respect of the said stage carriage ordinarily kept for use in the State shall be paid on or before the 31st July, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 33942/TC2/75-5/PW dated the 29th September 1975 published as S.R.O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

By order of the Governor,

T. SANKARAN,

Additional Secretary to Government.

G. 1526

[P. T. O.]

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification)

Govrnment have received representation from the Stage Carriage Operator as shown in the notification requesting extension of time for payment of the vehicle tax for the quarter ended on 31st March, 1981 due to financial strain ;

Government are convinced of the position and in public interest grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport C) Department

NOTIFICATION

No. 14549/TC2/82/TF&P. *Dated, Trivandrum, 14th October* 1982.

S. R. O. No. 1409/82.—Whereas representation has been received by Government from the Stage Carriage Operators specified in the annexure to this notification, that the vehicle tax for the quarter, ended on the 30th September, 1981, 31st December, 1981, 31st March, 1982 and 30th June, 1982, in respect of the Stage Carriages particulars of which are specified in the said annexure could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of these vehicles may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operators of the said stage carriages could not remit the vehicle tax in respect of the said stage carriages ordinarily kept for use in the State for the quarter ended on the 30th September, 1981, 31st December, 1981, 31st March, 1982 and 30th June, 1982 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriages due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarters ended on the 30th September, 1981, 31st December, 1981, 31st March, 1982 and 30th June 1982 in respect of the said stage carriages;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 30th September, 1981, 31st December, 1981 31st March, 1982 and 30th June 1982 in respect of the said stage carriages ordinarily kept for use in the State shall be paid on or before the 31st July, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (S) No. 33942/TC2/75-5/PW. dated the 29th September, 1975 published as S. R. O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated 29th September, 1975.

ANNEXURE

Sl. No.	*Name of Stage Carriage Operator*	*Registration No. of the Stage Carriage*
1.	Shri V. P. Varghese, Vettikaparambil, Edayar P. O., Koothattukulam, Ernakulam.	KRE. 1879
2.	Shri K. K. Antony, K. K. & Sons, Trichur.	KLH. [illegible]53
3.	Shri M. S. Venugopal, Manamel House, Konathukunnu.	KRE. 5383

By order of the Governor,

T. SANKARAN,

Additional Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification.)

Government have received certain representations from the Stage Carriage Operators as shown in the annexure requesting extension of time for payment of vehicle tax for the quarter ended on 30th September, 1981, 31st December, 1981, 31st March, 1982 and 30th June, 1982 due to financial strain;

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport C) Department

NOTIFICATION

No. 19951/TC2/82/TF & P. *Dated, Trivandrum, 20th October,* 1982.

S. R. O. No. 1410/82.—Whereas representation has been received by Government from the Stage Carriage Operator Shri M. S. Ravindranathan Pillai, Kizhakkemanakottil House, Manjummel, Ernakulam that the vehicle tax for the quarters ended on the 31st March 1982, 30th June 1982 and 30th September, 1982 in respect of the stage carriage bearing Registration Number KLF. 3517 could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of this vehicle may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operator of the said stage carriage could not remit the vehicle tax in respects of the said stage carriage ordinarily kept for use in the State for the quarter ended on the 31st March, 1982, 30th June, 1982 and 30th September, 1982 due to financial strain;

And whereas, the Government are convinced that non operation of the said stage carriage due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarters ended on the 31st March 1982, 30th June, 1982 and 30th September, 1982 in respect of the said stage carriage;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarters ended on the 31st March, 1982, 30th June, 1982 and 30th September, 1982 in respect of the said stage carriage ordinarily kept for use in the State shall be paid on or before the 30th September, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the Notification (5) No. 33942/TC2/75-5/PW. dated the 29th September, 1975 published as S. R.O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

By order of the Governor,

T. SANKARAN,

Additional Secretary to Government.

(P. T. O.)

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification.)

Government have received representation from the Stage Carriage Operator as shown in the notification requesting extension of time for payment of vehicle tax for the quarters ended 31st March, 1982, 30th June, 1982 and 30th September, 1982 due to financial strain;

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

Kerala Gazette No. 46 dated 23rd November 1982.
PART I Section Iv

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport C) Department

NOTIFICATION

No. 17849/TC2/82/TF&P. *Dated, Trivandram, 20th October,* 1982.

S. R. O. No. 1412/82.—Whereas representation has been received by Government from the Stage Carriage Operator Shri A. V. Purushothama Shenai, Anchalaparambil, Pallipuram P.O., Ernakulam that the vehicle tax for the quarter ended on the 31st March, 1981, 30th June, 1981, 30th September 1981, 31st March, 1982 and 30th June, 1982 in respect of the Stage Carriage bearing Registration Number KLF. 1283 could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of this vehicle may therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operator of the said stage carriage could not remit the vehicle tax in respect of the said stage carriage ordinarily kept for use in the State for the quarter ended on the 31st March, 1981, 30th June, 1981, 30th September, 1981, 31st March, 1982 and 30th June, 1982 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriage due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarter ended on the 31st March, 1981, 30th June, 1981, 30th September, 1981, 31st March, 1982 and 30th June, 1982 in respect of the said stage carriage.

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 31st March, 1981, 30th June, 1981, 30th September, 1981, 31st March, 1982 and 30th June, 1982 in respect of the said stage carriage ordinarily kept for use in the State shall be paid on or before the 31st August, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 33942/TC2/ 75-5/PW. dated the 29th September, 1975 published as S.R.O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

By order of the Governor,
T. SANKARAN,
Additional Secretary to Government

[P.T.O.]

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification).

Government have received representation from the Stage Carriage Operator as shown in the notification requesting extension of time for payment of vehicle tax for the quarter ended 31st March, 1981, 30th June 1981, 30th September, 1981, 31st March, 1982 and 30th June, 1982 due to financial strain;

Government are convinced of the position and in public interest grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport C) Department

NOTIFICATION

No. 18097/TC2/82/TF&P. *Dated, Trivandrum,* 14*th October* 1982.

S. R. O. No. 1413/82.—Whereas representation has been received by Government from the Stage Carriage Operator Shri K. P. Pankajan, Triveni Road Ways, Cannanore that the vehicle tax for the quarter ended on the 31st March, 1982 in respect of the Stage Carriage bearing Registration Numher KLC. 5256 could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of this vehicle may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operator of the said stage carriage could not remit the vehicle tax in respect of the said stage carriage ordinarily kept for use in the State for the quarter ended on the 31st March, 1982 due to financial strain:

And whereas, the Government are convinced that non-operation of the said stage carriage due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarter ended on the 31st March, 1982 in respect of the said stage carriage;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 31st March, 1982 in respect of the said stage carriage ordinarily kept for use in the State shall be paid on or before the 31st May, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 33942/TC2/75-5/PW., dated the 29th September, 1975 published as S. R. O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

By order of the Governor,

T. SANKARAN,

Additional Secretary to Government.

G, 1516

[P. T. O.]

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification).

Government have received representation from the Stage Carriage Operator as shown in the notification requesting extension of time for payment of vehicle tax for the quarter ended 31st March, 1982 due to financial strain;

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport-G) Department

NOTIFICATION

No. 17834/TC2/82/TF&P. *Dated, Trivandrum, 20th October,* 1982.

S R O. No. 1414/82.—Whereas representation has been received by Government from the Stage Carriage Operator Shri Francis N. J. Naduvila Veettil, Chilavannoor, Cochin-20 that the vehicle tax for the quarters ended on the 30th June, 1981, 30th September, 1981, 31st December, 1981, 31st March, 1982, 30th June, 1982 and September, 1982 in respect of the Stage Carriage bearing Registration Number KLF 8510, KLE 4917, KRE 6190 and KRE 4984 could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of this vehicle may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operator of the said stage carriage could not remit the vehicle tax in respect of the said stage carriage ordinarily kept for use in the State for the quarters ended on the 30th June, 1981, 30th September, 1981, 31st December 1981, 31st March, 1982, 30th June, 1982 and 30th September, 1982 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriage due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarters ended on the 30th June, 1981, 30th September, 1981, 31st December, 1981, 31st March, 1982, 30th June, 1982 and 30th September, 1982 in respect of the said stage carriage;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarters ended on the 30th June, 1981, 30th September, 1981, 31st December, 1981, 31st March, 1982, 30th June, 1982 and 30th September, 1982 in respect of the said stage carriage ordinarily kept for use in the State shall be paid within one month from 26th July, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 33942/TC2/75-5/PW dated the 29th September, 1975 published as S. R. O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

By order of the Governor,

T. SANKARAN,

Additional Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification.)

Government have received representation from the Stage Carriage Operator as shown in the notification requesting extension of time for payment of vehicle tax for the quarters ended 30th June, 1981, 30th September, 1981, 31st December, 1981, 31st March, 1982, 30th June, 1982 and 30th September, 1982 due to financial strain;

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

GOVERNMENT OF KERALA

Labour (F) Department

NOTIFICATION

G. O. (Rt.) No. 1196/82/LBR. *Dated, Trivandrum, 2nd November* 1982.

S.R.G. No. 1420/82.—In exercise of the powers conferred by subsection (5) of section 1 of the Employees' State Insurance Act, 1948 (Central Act 34 of 1948), the Government of Kerala, in consultation with the Employees' State Insurance Corporation and with the approval of the Central Government, and after having given six months notice hereby extend the provisions of the said Act to the classes of establishments, specified in column (1) of the Schedule annexed hereto and situated in the areas specified in column (2) thereof with effect from the midnight of Saturday the 18th December 1982, namely:—

SCHEDULE

Description of establishments	*Areas in which the establishments are situated*
(1)	(2)
1. The following establishments whereon twenty or more persons are employed, or were employed for wages on any day of the preceding twelve months, namely:— (i) Hotels; (ii) Restaurants; (iii) Shops; (iv) Road Motor Transport Establishments; (v) Cinemas including preview theatres; (vi) Newspaper Establishments as defined In Section 2 (d) of the Working Journalists, (Conditions of Service and Miscellaneous Provisions) Act, 1955 (Central Act 45 of 1955).	The areas within the revenue village of Vellur in Taliparamba Taluk of Cannanore District.

	(1)	(2)
2	Any premises including the precincts thereof whereon 10 or more persons but in any case less than twenty persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but excluding a mine, subject to the operation of a Mines Act, 1952 (Central Act 35 of 1952), or a railway running shed or an establishment which is exclusively engaged in any of the manufacturing processes specified in clause (12) of Section 2 of the Employees' State Insurance Act, 1948 (Central Act 34 of 1948).	The areas within the revenue village of Vellur in Taliparamba Taluk of Cannanore District.
3.	Any premises including the precincts thereof whereon 20 or more persons are employed or were employed for wages on any day of the preceding twelve months and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried but excluding a mine subject to the operation of the Mines Act, 1952 (Central Act 35 of 1952) or a railway running shed or an establishment which is exclusively engaged in any of the manufacturing processes specified in clause (12) of Section 2 of the Employees' State Insurance Act, 1948, (Central Act 34 of 1948).	The areas within the revenue village of Vellur in Talipparamba Taluk of Cannanore District

By order of the Governor,

V. KRISHNAMURTHY,

Secretary to Government.

Explanatory note

(This does not form part of the notification, but is intended to indicate its general purport).

Government in consultation with the Employees' State Insurance Corporation and with the approval of the Central Government propose to extend the provisions of the Employees' State Insurance Act, 1948 to certain new categories/classes of establishments in the areas as detailed in the notification wherein the Employees' State Insurance Scheme has since been extended by the Central Government by issuing notification under section 1 (3) of the Act. The notification is intended for the above purpose.

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport-C) Department

NOTIFICATION

No. 17835/TC2/82/TF&P. *Dated, Trivandrum, 20th October* 1982.

S.R.O. No. 1421/82.—Whereas, representations have been received by Government from the Stage Carriage Operators specified in the annexure to this notification that the vehicle tax for the quarter ended on the 30th September, 1982 in respect of the Stage Carriages particulars of which are specified in the said annexure could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of these vehicles may, therefore, be granted;.

And whereas, the Government are convinced that circumstances existed that the operators of the said stage carriages could not remit the vehicle tax in respect of the said stage carriages ordinarily kept for use in the State for the quarter ended on the 30th September, 1982 due to financial strain ;,

And whereas, the Government are convinced that non-operation of the said stage carriages due to non-payment of tax would have caused great inconvenience to the travelling public;...

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarter ended on the 30th September 1982 in respect of the said stage carriages ;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 30th September, 1982, in respect of the said stage carriages ordinarily kept for use in the State shall be paid on or before the 26th August 1982 , together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 33942/TC2/75-5/PW. dated the 29th September, 1975 published as S.R.O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated 29th September, 1975.

ANNEXURE

Sl. No.	Name of Stage Carriage Operators	Registration No. of the Stage Carriages
1.	Shri K. Ahamed, Stella Travels, Bus Stand, Badagara	KRE. 6118 KLZ. 5725
2.	Shri M. Asokan, Geetha Transport, Fort Road, Cannanore-I	KLN. 689
3.	Smt. M. Rathinammal, M/s Maheswari Motor Service, T. B. Road, Palghat	KLG. 657 KLG. 2851
4.	Shri K. Kumaran, Devaki Roadways, Post Thottada, Cannanore-7	KLC. 8355 KLN. 7355
5.	Shri P. M. Mohanan, Thriveny Motor Service, Nemmara.	KLO. 3530 KLG. 3686 KLO. 712

By order of the Governor,

T. SANKARAN,

Additional Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification.)

Government have received certain representations from the Stage Carriage Operators as shown in the annexure requesting extension of time for payment of vehicle tax for the quarter ended 30th September 1982 due to financial strain;

Government are convinced of the position and in public interest grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport-C) Department

NOTIFICATION

No. 17852/TC2/82/TF&P. *Dated, Trivandrum, 2nd November* 1982.

S. R. O. No. 1422/82.—Whereas representation has been received by Government from the Stage Carriage Operator Shri O. Ahamad Koya, Thulaparambil Veedu, Narakkal P. O., Ernakulam that the vehicle tax for the quarter ended on the 31st March, 1981 in respect of the Stage Carriage bearing Registration Number KLD. 9766 could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of this vehicle may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operator of the said stage carriage could not remit the vehicle tax in respect of the said stage carriage ordinarily kept for use in the State for the quarter ended on the 31st March, 1981 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriage due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest, the time for payment of the vehicle tax for the quarter ended on the 31st March, 1981 in respect of the said stage carriage;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended, on the 31st March, 1981 in respect of the said stage carriage ordinarily kept for use in the State shall be paid on or before the 31st August 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the Notification (5) No. 33942/TC2/75-5/PW dated the 29th September, 1975 published as S. R. O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

By order of the Governor,
T. Sankaran,
Additional Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification.)

Government have received certain representations from the Stage Carriage Operator as shown in the notification requesting extension of time for payment of vehicle tax for the quarter ended 31st March, 1981 due to financial strain;

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise this vehicle might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

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Government of Kerala
1982



Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Home (C) Department

NOTIFICATION

G. O. Rt. 3053|82|Home. *Dated, Trivandrum, 19th November,* 1982.

S. R. O. No. 1436/82.—In exercise of the powers conferred by sub-section (1) of section 11 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the Government of Kerala, after consultation with the High Court of Kerala, hereby establish with effect from the 26th day of November 1982 in the District (Sessions), Kottayam, a Court of the Judicial Magistrate of the Second Class to sit at the place Erattupetta.

By order of the Governor,

K. Achuthan Nair,
Joint Secretary.

33|4294|MC.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport).

By G. O. Ms. 5|82|Home dated 15-1-1982 sanction was accorded for the establishment of a Court of the Judicial Magistrate of the Second Class at Erattupetta. It is proposed to give effect to the order from 26-11-1982. The Notification is intended to achieve this object.

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Government of Kerala
1982



Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVII] Trivandrum, Tuesday, 23rd November 1982 / 2nd Agrahayana 1904 [No. 873

GOVERNMENT OF KERALA

Local Administration and Social Welfare (D) Department

NOTIFICATION

G. O. Rt. 3679|82|LA&SWD. *Dated, Trivandrum, 22nd November,* 1982

S. R. O. No. 1437/82.—Under section 70 of the Kerala Municipal Corporations Act, 1961 (30 of 1961), read with rule 8 of the Kerala Municipal Corporations (Election of Mayor and Deputy Mayor) Rules, 1962, it is hereby notified that Shri K. N. Narayanan Nair, Councillor, Division No. IX and Shri P. T. Moideen Koya, Councillor, Division No. XL of the Corporation of Calicut, have been elected as the Mayor and the Deputy Mayor, respectively, of the said Corporation at its meeting held on the 4th October, 1982.

By order of the Governor,

MARC. C. JOHN,
Deputy Secretary.

33|4295|MC.

Explanatory Note

(This does not form part of the Notification but is intended to indicate its general purport).

The Calicut Corporation Council at its meeting held on 4-10-1982 elected Shri K. N. Narayanan Nair and Shri P. T. Moideen Koya, Councillors of the Calicut Corporation as Mayor and Deputy Mayor respectively. Under section 70 of the Kerala Municipal Corporations Act, 1961 the election of Mayor and Deputy Mayor has to be notified in the Gazette. The Notification is intended to achieve the above object.

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GOVERNMENT OF KERALA

Food (C) Department

NOTIFICATION

No. 11702/C2/82/Food. *Dated, Trivandrum, 10th November* 1982.

The following Order No. GSR 832 dated 13-9-1982 of the Government of India, Ministry of Agriculture (Department of Food), New Delhi published in Part II, Section 3, sub-section (i) of the Gazette of India dated 2-10-1982, is hereby republished for general information.

By order of the Governor,

G. SOMANATHAN,
Additional Secretary.

33/4309/MC.

GOVERNMENT OF INDIA

Ministry of Agriculture

(Department of Food)

New Delhi, 13*th September*, 1982.

ORDER

G.S.R. 832. In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order further to amend the Wheat Roller Flour Mills (Licensing and Control) Order, 1957, namely:—

1. (1) This Order may be called the Wheat Roller Flour Mills (Licensing and Control) (Second Amendment) Order, 1982.

(2) It shall come into force at once.

2. In Wheat Roller Flour Mills (Licensing and Control) Order, 1957,—

(i) in item (c) of sub-clause 2 of clause 4, for the words and figure, "fee of Rs. 3", the words and figure, "fee of Rs. 30" shall be substituted;

(ii) for clause 6, the following shall be substituted, namely:—

"FEE FOR LICENCE:—The fee payable for a licence shall be Rs. 50 and that for renewal of a licence, Rs. 20";

(iii) in clause 7, for the words and figures, "fee of Rs. 10", the words and figures, "fee of Rs. 100" shall be substituted;

(iv) in clause 7A, for the sub-clause (2), the following sub-clause shall be substituted,—

"The security referred to in sub-clause (1) may be in the form of a demand draft drawn on the State Bank of India or any other Scheduled Bank, payable at New Delhi and endorsed in favour of the Controller of Accounts, Department of Food, Ministry of Agriculture, Government of India, New Delhi.";

(v) in the Schedule, in Form I, for the words and figures, "a treasury receipt for Rs. 5/Rs. 2", the words and figures "a demand draft or a treasury receipt for Rs. 50/Rs. 20" shall be substituted;

(vi) in the Schedule, in Form II,—(a) for condition II, the following condition shall be substituted, namely:—

"II. The licensee shall render all necessary facilities to the licensing authority or the specified authority, or the inspector or such persons as may be authorised by either of the licensing authority or the specified authority;—

(i) for the inspection of the roller mill, godown, or any other place used or believed to be used by the licensee for the storage or sale of any wheat or wheat products; and

(ii) for the taking of samples of such wheat or wheat products for examination.";

(b) for condition III, the following condition shall be substituted, namely:—

"III. The licensee shall furnish correctly such information relating to the business as may be demanded from him and shall carry out such instructions as may from time to time be given by the licensing authority or by the specified authority or by any officer authorised by licensing authority or by specified authority in this behalf or the Inspector, relating to such business.";

(c) for condition V, the following condition shall be substituted, namely:—

"V. The licensee shall abide by any directions issued by the licensing authority or the specified authority, as the case may be in regard to the purchase of wheat, extraction of maida, sooji or rawa and also in regard to the distribution or disposal of wheat products.";

(d) for condition VIB, the following condition shall be substituted, namely:—

"VI B. The licensee shall, where so directed by the licensing authority or the specified authority, as the case may be instal separate power meter for the electric motor fixed in the mill.";

(vii) in the Schedule, for Form III, the following Form shall be substituted, namely:—

"FORM III

(*See* clause 9)

Monthly Returns to be submitted by the mills for the month ending......................

Name and address of the Mill..............................

(figures in metric tonnes)

	Indigenous	*Imported*	*Total*
(i) Opening Balance			
(ii) *Quantity of Wheat allotted during the month			
(iii) *Quantity actually lifted by the mill during the month			
(iv) *Quantity purchased, if any			
Total of items (i), (iii) & (iv).			
(v) Milled during the month			
(vi) Closing Balance			
(vii) Quantity hypothecated with the Bank(s). (here state name of the Bank(s)			
(viii) Quantity purchased but not yet received in roller mill:			
(a) Lying with the purchasing agents (here state the station where lying)			
(b) Hypothecated with the Bank(s) (here state the name of the Bank (s)			

*Here indicate source from where supplies received.

2. *Wheat Products*

Opening balance	*Extraction perentage*	*Production*	*Total*	*Sales*	*Closing balance*	*Quantity hypothecated with the Banks*
Maida						
Suji						
Resultant Atta						
Wholemeal Atta						
Bran						
Total						

3. *Wheat milled by Roller Flour Mill on account of PDS/MBI/APO/other customers, if any.*

	Opening Balance	*Quantity allotted by State/ U.T.*	*Quantity actually lifted*	*Quantity milled/ grinded*	*Quantity wholemeal atta produced*	*Quantity lifted by allottees/ State Govt./ U.T. for PDS distribution (on despatch with names)*
1.	P.D.S.					
2.	M.B.I.					
3.	A.P.O.					
4.	Custom milling.					

Signatures for Roller Flour Mill".

(Sd.)
(U. V. V. L. Narasimham),
Deputy Secretary to the Govt. of India.
[5 (Genl.(1)/81-D&R-I-82]

Foot Note:

The Wheat Roller Flour Mills (Licensing and Control) Order, 1957 was published under the Notification of the Government of India in the erstwhile Ministry of Food and Agriculture (Department of Food), No. S.R.O. 2861 dated the 9th September, 1957. This Order has been amended from time to time by Notification Nos.—

1. G.S.R. 348 dated 5-5-1958
2. G.S.R. 1081 dated 5-11-1958
3. G.S.R. 18 dated 29-12-1959
4. G.S.R. 751 dated 29-6-1960
5. G.S.R. 50 dated 10-1-1961
6. G.S.R. 181 dated 10-2-1961
7. G.S.R. 746 dated 27-5-1961
8. G.S.R. 784 dated 7-6-1961
9. G.S.R. 1213 dated 30-9-1961
10. G.S.R. 354 dated 23-2-1963
11. G.S.R. 960 dated 6-7-1965
12. G.S.R. 1387 dated 15-9-1965
13. G.S.R. 462 dated 24-3-1966
14. G.S.R. 971 dated 18-6-1966
15. G.S.R. 2021 dated 26-12-1966
16. G.S.R. 65 dated 13-1-1967
17. G.S.R. 446 dated 21-2-1969
18. G.S.R. 1724 dated 17-5-1969
19. G.S.R. 1296 dated 27-8-1976
20. G.S.R. 874 dated 18-6-1979
21. G.S.R. 1473 dated 30-11-1979
22. G.S.R. 242(E) dated 29-4-1980
23. G.S.R. 673 dated 10-7-1981
24. G.S.R. 50(E) dated 6-2-1982

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